



JAMAICA COUNTRY REPORT

April 2005

Country Information & Policy Unit

**IMMIGRATION AND NATIONALITY DIRECTORATE
Home Office, United Kingdom**

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1. Scope of Document

1.1 This Country Report has been produced by Immigration and Nationality Directorate, Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 1 March 2005.

1.2 The Country Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

1.3 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.4 The structure and format of the Country Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.5 The information included in this Country Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented; rather that information regarding implementation has not been found.

1.6 As noted above, the Country Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. Country Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text.

1.7 The Country Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

1.8 This Country Report and the accompanying source material are public documents. All Country Reports are published on the IND section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.9 Country Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in Country Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country Information Bulletins, which are also published on the IND website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this Country Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country information material. The Advisory Panel welcomes all feedback on the Home Office's Country Reports and other country information material. Information about the Panel's work can be found on its website at www.apci.org.uk.

1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office Country Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.1 As reported by the CIA World Factbook last updated 27 January 2005, Jamaica is an island in the Caribbean Sea and lies south of Cuba. Jamaica has an area of 10,991 sq km. Kingston is its capital and the island is divided into 14 parishes. The Factbook also noted that according to the official estimate in July 2004, the population stood at 2,713,130. The same source further noted that the official language of Jamaica is English but patois English is also widely spoken. [4](p4) [4](p1-4)

2.2 Europa Regional Surveys of the World; South America, Central America and the Caribbean 2005 notes that there are more than 100 Christian denominations active, in Jamaica. Europa also noted that according to the 1982 census, the largest religious bodies were the Church of God, Baptists, Anglicans and Seventh-day Adventists. Other denominations include the Methodist and Congregational Churches, the Ethiopian Orthodox Church, the Disciples of Christ, the Moravian Church, the Salvation Army and the Society of Friends (Quakers). [1](p565)

For further information on Geography, refer to Europa Regional Surveys of the World; South America, Central America and the Caribbean 2005, source [1](p273-302).

3. Economy

3.1 The FCO Country Profile 2005 noted that the key sectors in Jamaica's economy are bauxite and tourism. Agriculture also plays an important role. Following a near economic crisis in the first half of 2003, the authorities worked hard to stabilise the economy and restore market confidence. Challenges remain, such as high interest rates and a growing internal debt, increased foreign competition and a growing trade deficit. In September 2004 Jamaica was hit by Hurricane Ivan, which led to a number of deaths and damage to infrastructure, housing and the farming community. Agricultural production was disrupted - particularly bananas. Despite this setback, the Government predicts economic growth of around 2% in 2004. [6](p2)

3.2 The US Department of State Background Note issued August 2004 reported that the Jamaican Government's economic policies encourage foreign investment in areas that earn or save foreign exchange, generate employment, and use local raw materials. The Government provides a wide range of incentives to investors, including remittance facilities to assist them in the repatriation of funds to the country of origin; tax holidays, which defer taxes for a period of years; and duty free access for machinery and raw materials imported for approved enterprises. [7](p3-4)

3.3 The January 2005 Country Report on Jamaica by the Economist Intelligence Unit (EIU) noted that the exchange rate in 2003 was J\$57.74 to US\$1. The EIU estimated that the exchange rate for 2004 to be J\$61.37 to US\$1. [66](p5)

3.4 The January 2005 EIU Country Report noted that "On December 7th [2004] Jamaica's house of representatives passed two bills, the Caribbean Community Establishment, Services, Capital and Movement of Community Nationals Act 2004, and the Diplomatic Immunities and Privileges Act. Both bills form part of the Caribbean Single Market and Economy (CSME), due for implementation from January 2005. The first is intended to permit nationals of the Caribbean Community (Caricom) member states to establish businesses freely, provide services and move capital within Caricom.... A combination of 84 legislative and regulatory measures need to be implemented by each country before the CSME can become a reality. Jamaica has so far completed 34 of these steps." [66](p14)

4. History

4.1 The FCO Country Profile on Jamaica dated 10 January 2005 noted that Jamaica had been a British colony since 1655. The country became a member of the Federation of the West Indies in 1958 and self-governing in its internal affairs in 1959. [6](p1)

4.2 As documented in the Europa World Year Book 2003 the two dominant figures after the Second World War were the late Sir Alexander Bustamante, leader of the Jamaica Labour Party (JLP), who retired as Prime Minister in 1967, and Norman Manley, a former Premier and leader of the People's National Party (PNP) who died in 1969. The Jamaica Labour Party (JLP) and the People's National Party (PNP) have been the two most dominant political parties forming successive governments since the country's independence. [5](p2259)

For further information on History, refer to Europa Regional Surveys of the World; South America, Central America and the Caribbean 2005, source [1](p273-302).

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Recent History

4.3 A Freedom House report on Freedom in the World, Jamaica section dated 15 September 2004, noted that Jamaica, in 1992, the PNP elected Patterson to replace Michael Manley as party leader and Prime Minister. In 1993 legislative elections that were marred by irregularities and violence, the PNP won 52 parliamentary seats and the JLP 8 seats. [65](p1)

4.4 An undated Jamaicans for Justice report accessed 24 February 2004, 'Jamaica's Human Rights Situation' noted that "Jamaica's socio-political background is a picture of the promise of independence marred by a culture of political tribalism. This culture of tribalism, which has seen the entrenchment of political power as the pinnacle of achievement, has resulted in the creation of an increasingly violent society in which human rights are honored on paper but not in practice...." [51a](p1)

4.5 The same Jamaicans for Justice report noted that

"Jamaica today is a case study in tribalist politics typified by inner-city 'garrison' communities, that are entrenched in state-built housing, are politically homogenous, intolerant of dissenting views, and defended by guns and bullets.... Out of structures created by political wars, 'community' youth gangs have emerged to fight over turf and account for 20-25 percent of homicides. Criminal gangs linked with US 'posses', UK 'yardies', and now, most lethally, with elements of the Colombian drugs trade menace the entire fabric of society." [51a](p2)

4.6 The above mentioned Freedom House report stated that the new Patterson government confronted labour unrest and an increase in violent crime carried out largely by former politically organised gangs operating a lucrative drug trade only loosely tied to local party bosses. In 2000, Patterson promised to staunch Jamaica's "rampant criminality" by introducing new

efforts to control guns, creating a new police strike force targeting organised crime, and reintroducing the death penalty. [65](p1)

4.7 As reported by Europa Year Book 2003, in July 2000, conflict broke out between the police and rival PNP and JLP factions in Kingston, reportedly caused by an exchange of gunfire between police and a group of civilians during a weapons patrol. Following three days of fighting in which 25 people were reportedly killed, units of the Jamaica Defence Force (JDF) were deployed to restore order. As noted by the same source the JDF were deployed again in October 2001, in response to sporadic outbreaks of violence and social unrest. These outbreaks continued into 2002. [5](p2260)

4.8 Europa noted that despite measures implemented by the Government in 2000, confrontations between the police and various sectors of the community continued during 2001. Amnesty International [in a report dated 10 April 2001 - AMR38/003/2001] claimed that the Jamaican Police Force had one of the highest records for the execution of its own citizens in the world. In 2000 the police force had shot dead 140 suspected criminals. The Europa Year Book also noted that in August 2001, the leaders of the two political parties held a meeting to discuss ways of reducing crime and violence in the suburbs. It was proposed that a crime committee would be established and would be jointly headed by the Minister of National Security and the JLP's Spokesman on National Security. [5](p2260)

4.9 A Caribbean Media Corporation (CMC) article reported by BBC Monitoring noted that in November 2003 the DPP ruled that six members of the JCF be charged with the killings. The DPP's ruling followed his review of evidence presented during the lengthy coroner's inquest into the fatal police shooting. [44f]

4.10 An Amnesty International [AI] report - dated 15 May 2003 noted that in May 2003 two men and two women in Crawle, Clarendon were fatally shot by police. AI noted that the community of Crawle in Clarendon complained of police harassment and threats following the alleged extrajudicial execution of the four people on 7 May 2003. Police officers had reportedly constantly visited the community in unmarked vehicles in an effort to intimidate them and several eyewitnesses said that they would only be willing to testify, if their safety could be guaranteed. [9a]

4.11 A CMC article, dated 2 June 2003, reported by BBC Monitoring stated that the [then] Police Commissioner Francis Forbes confirmed in June 2003, that the CMU had been disbanded. Its leader, Senior Superintendent Renato Adams, had been taken off operational duties. Francis Forbes said that under Adam's leadership, the CMU had been dogged by controversy, including allegations of extrajudicial killings. [44a] Following this it was confirmed that five members of the CMU, including Adams, were taken off frontline duty as police started their probe into the shooting as reported in a CMC article dated 5 June 2003. [44e]

4.12 A BBC Monitoring article - Caribbean Rim; Press review 3-4 June 2003 noted that the disbanding of the CMU had been considered a victory for justice by the opposition (JLP) and civic groups Jamaicans For Justice (JFJ) and Families Against State Terrorism (FAST). The JLP had reportedly

objected to its establishment from the outset and had been among those calling for its disbandment when reports of controversial killings began to mount. A related article in the Kingston Jamaica Observer on 4 June [2003] added that all killings of police officers will now be investigated by the new Organised Crime Investigating Division (OCID) an upgraded version of the Organised Crime Investigating Unit. [33a]

4.13 The CMC as reported by BBC Monitoring on 25 August 2003, following the disbanding of the CMU in June 2003, the National Security Minister Dr Peter Phillips on 24 August 2003 stressed that there was no “quick fix” for solving worrying crime and violence in Jamaica. Phillips announced that that OCID would be upgraded and given more autonomy. The unit, which is a combination of the skills and human resources of three crime-fighting divisions, would focus on migratory pattern of crime. Phillips said much emphasis would be placed on curbing the movement of criminals across the country. [44j]

4.14 In their publication "Jamaica: An end to police impunity in sight?" dated 25 June 2003, AI stated that they welcomed the recent actions and undertaking by the Jamaican government to strengthen the investigation of police officers involved in fatal shootings. They said that the recent actions to help bring about police accountability are positive, welcome and give credibility to the government's statements that they seek to hold police officers to account in Jamaica. However, in their final analysis, there are only two criteria by which success can be judged: a significant drop in the number of those killed by police officers and the trial and conviction of officers for unlawful killings. [9c]

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General Election of 16 October 2002

4.15 The Freedom House Report dated 15 September 2004, noted that in 2002, Patterson became the only Prime Minister in Jamaican history to be elected to three consecutive terms. His PNP won 34 of 60 parliamentary seats and retained the prime ministership for an unprecedented fourth term; the JLP took 26 seats. An observer delegation led by former U.S. President Jimmy Carter said that despite a crackdown on voter fraud, such activity remained high in areas controlled by politically linked gangs. Patterson also became the first chief executive to swear allegiance to the Jamaican people and constitution, rather than to the Queen of England. The firsts marked by election, however, did virtually nothing to change the challenges facing the PNP, including ridding the island of drug kingpins and illegal guns, reviving a flat economy, and rebuilding a slumping tourist industry. [65](p2)

4.16 Election results published on the Jamaica Elections website, accessed 22 October 2002, showed that the PNP won 35 seats of the 60-seat legislature, against its main opposition party the JLP, which won 25 seats in the House of Representatives. [35]

4.17 An article in the Jamaica Gleaner dated 18 October 2003 reported that of just over 1.3 million electors on the register of voters, 745,585 or just over 57% voted. [34b] The CMC dated 12 October 2002, reported by BBC Monitoring, noted that on Friday 11 October 2002, nearly 20,000 members of security forces and election-day workers voted. [18a] Another article in the

CMC, reported by BBC Monitoring dated 11 October 2002, noted that ballots were sorted by constituency and placed in a secure location until they could be added to the general pool for tallying on the day of the election. [18b]

4.18 The USSD Background Note dated August 2004, stated that groups and organisations such as the Citizens Action for Free and Fair Elections (CAFFE) and supplemented by the Carter Centre helped reduce the violence that has tended to mar Jamaican elections. Former [US] President Carter also observed the 2002 elections and declared them 'free and fair'. [7](p3)

4.19 As reported in the Jamaica Gleaner dated 18 October 2002, "The political leaders have praised the performance; and CAFFE, which had observers posted islandwide, told a press briefing yesterday [17 October 2002] that despite some incidents of violence and intimidation, the polling went relatively smoothly." [34c]

4.20 In the above dated issue of the Gleaner it was reported that "The type of garrison politics that is practised in Jamaica is not seen anywhere else in the world, according to Jennifer McCoy, Carter Centre Director for Latin American and Caribbean Programme".... The Carter Centre representative said it was not all bad as she was satisfied with the progress made since the elections of 1993 and 1997, when "overt fraud" was evident. To this end, she praised the Electoral Office of Jamaica for taking steps to weed out political activists with freshly recruited election day workers who manned more than 7,200 polling stations islandwide in Wednesday's [16 October 2002] general election, that was won by the People's National Party. [34d]

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Political Violence & the Election Campaign

4.21 An article in the Independent (London) newspaper, dated 17 October 2002, reported that thousands of police and soldiers patrolled the streets in Jamaica on 16 October 2002 as voters streamed to the polls at the end of an election campaign overshadowed by a history of politically motivated gang violence. [56] A BBC report dated 14 October 2002 stated that more than 50 people had died across the island in the last two weeks and many of the killings are thought to have been politically motivated. [21a] An article in the Associated Press State and Local Wire, dated 17 October 2002, noted that 'There's less violence and less intimidation in this election,' said voter George Ricketts, 68. 'Things are looking up'. [54a]

4.22 A BBC news report dated 14 October 2002, reported that "In the run up to this year's [2002] elections, both Prime Minister Patterson and Edward Seaga have been preaching a message of peace and non violence amongst their supporters". [21a] A article dated 12 June 2002 by Reuters, stated that "Jamaica's two main political leaders have signed a code of conduct they hope will ease violence and intimidation of party supporters as the Caribbean island heads toward elections by year's end." [16a]

4.23 However, a report in the Observer (UK) dated 13 October 2002, stated that

"Many of the areas of the capital, Kingston, are in a state of war as armed gangs loyal to the two rival political parties - the ruling People's

National Party and the opposition Jamaica Labour Party - launch attacks into each other's territory and candidates. Motorcades led by both Prime Minister P.J.Patterson and opposition leader Edward Seaga were fired upon in recent days". [20]

4.24 The CMC dated 12 October 2002, reported by BBC Monitoring, stated that

"[then] Police Commissioner Francis Forbes has accepted a recommendation by the Electoral Advisory Committee (EAC), which advises on electoral policy in Jamaica and the director of elections for a ban on political meetings, motorcades, rallies and tours in six constituencies. In a release issued on Tuesday [8 October][2002] afternoon the Commissioner also warned that he would not hesitate to ask that campaigns be banned in more constituencies to stem a recent upsurge in political violence. The constituencies in which campaigning was banned are Central Kingston, Eastern St Andrew, Central St Andrew, Central St Catherine, Central Manchester and Western St Thomas." [18d]

4.25 An article in the Observer newspaper (UK) published on 13 October 2002, reported that

"Although ostensibly political, much of the violence emanates from the 'garrison communities' known by their unofficial names which include Tel Aviv, Dunkirk and Southside in downtown Kingston, which are also home to the country's drug barons. And what is becoming clear is that many of the attacks are being funded by Yardie gangsters based in London. They are using money from the drug trade to disrupt elections and ensure their favoured candidates are brought to power." [20]

4.26 The CMC, as reported by BBC Monitoring on 4 August 2003, stated that during local elections held in June 2003 there was some violence in lower Mountain Avenue when some 20 people were killed during a violent flare-up. The police introduced a curfew in sections of the community. [44b] However, normal activity resumed following heavy police presence and a two-week truce among the warring factions as noted by a Caribbean News Corporation article reported by BBC Monitoring on 6 August 2003. [44c] The Jamaica Gleaner dated 4 August 2004 noted that the next elections are the general elections which are Constitutionally due in 2007. [34an]

4.27 An article featured in the [independent] Jamaica Gleaner dated 15 February 2005, reported that "The Cabinet yesterday [14 February 2005] approved a recommendation of the Electoral Advisory Committee (EAC) that a system of electronic identification of voters by fingerprint be used in all future elections. Minister for Information Senator Burchell Whiteman told yesterday's [14 February 2005] post cabinet press briefing that bills have been drafted to amend the Representation of the People Act, the Kingston and St Andrew Corporation (KSAC) Act and the Parish Council Act, to facilitate the move." [36ap]

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5. State Structures

The Constitution

5.1 Europa Regional Surveys of the World: South America, Central America and the Caribbean 2005 recorded that the Constitution came into force on 6 August 1962 when Jamaica gained independence. Amendments to the Constitution are enacted by Parliament but certain entrenched provisions require ratification by a two-thirds' majority in both chambers of the legislature, and some (such as a change of the head of State) require the additional approval of a national referendum. The Head of State is the British Monarch, who is locally represented by the Governor-General, appointed by the British monarch and approved by the Jamaican Prime Minister in consultation with the Leader of the Opposition party. [1](p563)

5.2 Europa 2005 also mentioned that the Constitution includes provisions in safeguarding the fundamental freedoms of the individual, irrespective of race, place of origin, political opinion, colour, creed or sex. [1](p563)

5.3 The U.S. Department of State Background Note on Jamaica issued in August 2004 noted that "The judiciary also is modeled [sic] on the U.K. system. The Court of Appeals is the highest appellate court in Jamaica. Under certain circumstances, cases may be appealed to the Privy Council of the United Kingdom. Jamaica's parishes have elected councils that exercise limited powers of local government." [7](p2) [Please refer to paragraphs 5.38 – 5.47 on the Caribbean Court of Justice]

The Fundamental Rights and Freedoms

5.4 Under Chapter 3 of the Jamaican Constitution (1962) the fundamental rights and freedoms are:

- (a) The right to life. This section provides that 'no person shall intentionally be deprived of life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.' It also stipulates that a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use of force in protection from violence, defence of property, to effect a lawful arrest, to prevent escape from lawful detention, in suppression of a riot, insurrection or mutiny or in lawful prevention of a criminal offence.
- (b) Protection from arbitrary arrest or detention
- (c) Protection from inhuman treatment
- (d) Freedom of movement
- (e) Protection of property and privacy of home
- (f) Provision to secure protection of law
- (g) Freedom of conscience
- (h) Freedom of expression
- (i) Freedom of assembly and association.

[2](section 13)

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Citizenship and Nationality

5.5 Under chapter 2 of the 1962 Constitution, any person who was born in Jamaica and was a citizen of the United Kingdom and Colonies prior to 5 August 1962, became a citizen of Jamaica on 6 August 1962. All persons

born in Jamaica after independence would automatically gain Jamaican citizenship. Persons born outside Jamaica to Jamaican parents, who would have qualified for citizenship on 6 August 1962, can become Jamaican citizens. Any person who marries a Jamaican can be registered as a citizen of Jamaica. [2](sections 3 - 12)

5.6 The Constitution also states that the Governor-General is empowered to deprive citizens of Jamaica of their citizenship, persons who have acquired legal rights or the citizenship of another country by registration, naturalisation or other voluntary and formal act (other than marriage). [2](section 8)

Political System

5.7 The US State Department Report 2004 (USSD), published on 28 February 2005 noted that "Jamaica is a constitutional parliamentary democracy. In the free and fair 2002 general elections, Prime Minister P J Patterson's People's National Party (PNP) won 34 of the 60 seats in the House of Representatives. The PNP also was allocated 13 seats in the 21-seat Senate." [8](p1) Europa Regional Survey 2005 recorded that the Head of State is the British Monarch and is locally represented by the Governor-General. The legislature is bicameral and comprises the upper chamber or the Senate and the lower chamber or the House of Representatives. The Senate consists of 21 Senators, 13 of whom are appointed by the Governor-General on the advice of the Prime Minister and 8 by the Governor-General on the advice of the leader of the opposition. In the absence of an opposition leader, 8 independent Senators may be appointed to the Senate. The House of Representatives consists of 60 elected members called Members of Parliament. [1](p563)

5.8 The Europa World Yearbook 2002 noted that on winning a third term in office at the end of 1997, Prime Minister Patterson announced plans to make Jamaica a republic within five years, replacing the British monarch as Head of State with a ceremonial President. [5](p2260) An article in The Scotsman dated 23 September 2003 noted that at the PNP annual conference on 21 September 2003 Prime Minister Patterson repeated this. [61]

5.9 The Europa Regional Survey 2005 recorded that the Prime Minister is appointed from the House of Representatives by the Governor-General, and is the leader of the Party that holds the majority of seats in the House of Representatives. The leader of the party is voted in by members of that party. The leader of the Opposition is voted in by members of the Opposition party. The Cabinet consists of no fewer than eleven other ministers, not more than four whom may sit in Senate. The members of the Cabinet are appointed by the Governor-General on the advice of the Prime Minister. [1](p563)

5.10 The U.S. Department of State Background Note issued in August 2004, noted that Jamaica's political system is stable. However, the country's serious economic problems have exacerbated social problems and have become the subject of public debate. High unemployment - averaging 15.5% - rampant underemployment, growing debt, and high interest rates are the most serious economic problems. [7](p3)

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Political Parties

5.11 The USSD 2004 noted that

"The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties often faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote." [8](p5)

5.12 The USSD 2004 continued that "Two political parties -- the PNP and the Jamaica Labour Party (JLP) -- have alternated in power since the first elections in 1944." [8](p5-6)

5.13 A Jamaica Gleaner news article dated 18 October 2002 reported that, Jennifer McCoy, Carter Centre Director for Latin American and Caribbean Programme commenting on the 16 October 2002 election said that "Garrisons are political constituencies fiercely loyal to either the People's National Party or the opposition Jamaica Labour Party." Ms McCoy sought to explain the reasoning behind earlier comments by President Carter that garrison politics were a disgrace and a blot on Jamaica's image. His comments, she said, referred to the impact of the so-called garrison-type political organisation and the right of voters to cast their ballots freely and fairly to make their choice. [34d]

Peoples National Party (PNP)

5.14 Europa Regional Survey 2005 noted that in March 1992, the then Prime Minister Michael Manley announced his retirement on grounds of ill health, and in the ensuing party leadership election, Percival J Patterson, the former Deputy Prime Minister, emerged the victor. Under Patterson's leadership the policy of stringent economic management continued, with the result that inflation lessened and the exchange rate stabilised. Conscious of his own popularity and factional disarray within the JLP, Patterson opted for an early election in March 1993, in which the PNP polled an overwhelming 60% of the votes, albeit on a low turn-out. [1](p554)

5.16 An article in the Jamaica Gleaner dated 4 August 2004 reported that "Prime Minister Patterson had long maintained that he will not be going up for re-election at the next general election, which is constitutionally due by 2007." The same article also states that "Dr Peter Phillips, the Minister for National Security and vice-president of the People's National Party (PNP), has secured a strong team of high-profile Cabinet members to support his campaign for leadership of the governing party as soon as Prime Minister P.J. Patterson steps down." [34an]

5.17 As reported in the Jamaica Gleaner dated 26 July 2004,

"P.J. Patterson, president of the People's National Party and Prime Minister, yesterday [25 July 2004] warned the candidates seeking to

succeed him against accepting tainted money or donations from anonymous persons to fund their campaigns. 'We cannot allow money to be the source of determining political power and we cannot take it when it suits our individual advantage, and condemn it when it is being used against us,' he said. ...Mr. Patterson, who has announced that he intends to step down as party president before the next general election constitutionally due in 2007, said 'We cannot allow a situation where the outcome of these elections is determined by money and where any of that money is coming from contaminated sources.' He said this was particularly important now, especially with recent happenings that have caused the actions of certain politicians to come under scrutiny. Among the candidates in the race for the presidency of the PNP are: Dr. Peter Phillips, Portia Simpson Miller and Dr. Karl Blythe, all vice-presidents of the PNP; Robert Pickersgill, chairman of the PNP, and Dr. Omar Davies, chairman of the party's Region Three." [38]

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Jamaican Labour Party (JLP)

5.18 Europa Regional Survey 2005 noted that the JLP's defeat in the 1993 election led to increased in-fighting among senior members and criticism of [Edward] Seaga's leadership, with the result that in 1995 former JLP Chairman and finance spokesman, Bruce Golding, left the party to lead a new organisation, the National Democratic Movement (NDM). [1](p554)

5.19 A Reuters press article dated 13 October 2002 reported that "Bruce Golding, who left the JLP years ago, rejoined the party recently, leading to speculation he is in line to take over the leadership when Seaga steps down." [16b] However, according to the Jamaica Election website the NDM did not win any seats in the general election. [35]

5.20 A Jamaica Gleaner article dated 30 June 2004 noted that the leader of the Opposition, Edward Seaga signalled his intention to resign after 30-years as head of the party. Mr Seaga's resignation came in the wake of months of public bickering within the JLP as well as unyielding calls for him to step down and make way for fresh leadership to take the party out of 15 years of political opposition. The article noted Mr Seaga as saying in a statement the previous day that "I have today notified the chairman of the Jamaica Labour Party, Senator Bruce Golding, that I do not propose to lead the JLP in any further elections, and as a consequence, my intention to retire from the leadership of the JLP in November 2004." [34a]

5.21 As reflected in an article in the Jamaica Gleaner dated 11 August 2004, JLP Chairman, Bruce Golding, officially offered himself for the leadership of the party. The article stated that

"Senator Golding, who received the official endorsements of no less than 12 JLP Members of Parliament, several councillors, and the heads of three affiliated organisations, told a capacity crowd at the Jamaica Conference Centre, downtown Kingston, that a JLP headed by him would offer the nation the kind of leadership needed to take it out of the quagmire of poverty and violence created by the governing People's National Party (PNP)." [34am]

5.22 According to an article in the independent Jamaica Gleaner dated 11 October 2004,

"Mr Golding and Mr [Pearnel] Charles are the only two contenders seeking to replace Edward Seaga as party leader. The race between the two has, however, turned ugly over the past few weeks with each side accusing the other of dirty campaigning.... Mr Golding assures delegates that he was the best man for the job, having gained a wealth of experience working alongside party stalwarts such as Donald Sangster, the late Hugh Shearer and Edward Seaga, all former Prime ministers of Jamaica." [34be]

5.23 The Jamaica Gleaner dated 20 January 2005 reported that

"Member of Parliament for North Clarendon, Pearnel Charles, yesterday [19 January 2005] withdrew from the race to replace Edward Seaga as leader of the Jamaica Labour Party (JLP), leaving the contest open to only Bruce Golding, the party's chairman. In a statement to the press, Mr. Charles said he 'will not accept nomination for the position of the Leader of the Labour Party at this time.'" [34br]

5.24 According to an article in the independent Jamaica Gleaner newspaper dated 12 January 2005 Mr Seaga's resignation is due to take effect on 19 January 2005. Mr Seaga would assume a senior post in the Department of Government at the University of the West Indies. [34bp] As reported in the Jamaica Observer dated 13 January 2005 the JLP is expected to meet on 17 January 2005 to elect an interim leader of the opposition to fill the gap created by Edward Seaga's decision to resign from that position as of 19 January 2005. [36ah]

5.25 The Jamaica Observer dated 19 January 2005 noted that Mr Seaga gave his final speech on 18 January 2005. Seaga had had a 43-year career in the House of Representatives [36ai] and Leader of the JLP for the past 30 years, as reported in the Jamaica Gleaner dated 23 January 2005. [34bq]

5.26 The Jamaica Gleaner dated 23 January 2005 noted that on Friday 21 January 2005 Dr Kenneth Baugh became the newly appointed leader for the Opposition in Jamaica. He was officially named temporary Opposition leader by Governor-General, Sir Howard Cooke. Dr Baugh said that one of his priorities as interim leader is to get an early date for a by-election, which will decide the next Member of Parliament for West Kingston. Another is to get the JLP back on track to face the PNP in the general election. The article also says that Mr Golding is expected to replace Mr Seaga when party delegates vote for a new leader at the JLP conference on 19 February 2005. [34bq]

5.27 The Jamaica Gleaner dated 21 February 2005 reported that Bruce Golding had now become the official leader of the Jamaica Labour Party. The article stated that

"Mr. Golding said it was now his task to lead the JLP 'and not too long from now to lead Jamaica into a brighter tomorrow, where justice will roll down like waters from a mighty stream, where liberty will flourish

and grow and where prosperity will become the experience of every man, woman and child in Jamaica.' The new JLP leader chastised the Government for presiding over a country where he said crime was rampant, economic growth slow, and unemployment at an unacceptably high level. He said his vision for Jamaica was one in which 'some people may be rich, but no one will have to be poor.' He said he wanted a Jamaica where 'every Jamaican can feel safe and secure ... and will know that his rights will be respected and that he will get justice.'" [34dh]

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The Imperial Ethiopian World Federation Incorporated Political Party (IEWF)

5.28 The website of the Election Office of Jamaica, accessed on 15 October 2002, noted that "The Imperial Ethiopian World Federation Incorporated Political Party [IEWF] was officially launched on July 16, 1997. The I.E.W.F. Inc. first entered the Jamaican political arena in the 1997 General Election with five (5) candidates The I.E.W.F. Inc.'s main advocacy at its genesis in local politics is to have representation for the Rastafarian community and the Grassroot people through the I.E.W.F. Inc. presence in the Jamaican Parliament, so as to ensure Rastafarian community within the Jamaican democracy." [52] The Jamaica elections website noted that the IEW Inc took part in the general election on 16 October 2002 but failed to win any seats in the parliament. [35]

Other parties

5.29 An article in the Latin American Press dated 22 April 2002 indicated that the United People's Party was formed in 2001 by Antoinette Haughton. The growing impetus to break the political domination of PNP and its main political opposition JLP gave rise to formation of another new party, that of the Jamaica Alliance for National Unity (JANU), which was launched in 2002 by a group of church leaders. [13b]

Local elections June 2003

5.30 An Associated Press article dated 20 June 2003 noted that

"Jamaica's main opposition party scored an important victory Thursday [19 June 2003], winning control of 12 of 13 municipal councils in elections billed as a crucial popularity test for the government. With all ballots counted, the Jamaica Labor Party won 52 percent of the vote in races accompanied by isolated violence, electoral officials said. Thursday's election was the first electoral victory for the Jamaica Labor Party, led by former Prime Minister Edward Seaga. Prime Minister P.J. Patterson's People's National Party won 48 percent of the votes." [58]

5.31 The Freedom House Report on Jamaica dated 15 September 2004, noted that

"In June [2003], the JLP won a landslide victory in bitterly contested local elections that appeared to be a referendum on the PNP's fiscal policies. The JLP secured control of 11 of the 13 municipal councils

contested; 23 percent of the candidates were women. Following the vote, 27 people, including two police officers, were killed during security force operations in western Kingston, and 16 others died in gun battles in the eastern part of the city, as gangs loyal to the country's two major political parties battled." [65](p2)

5.32 As reported in the Caribbean Media Corporation (CMC) news dated 4 August 2003, "Following the 19 June [2003] local government elections, some 20 twenty [sic] people were killed during a flare-up of violence in lower Mountain View Avenue - one of the main thoroughfares connecting the capital with the Norman Manley International airport in the corporate area. Police were forced to introduce a curfew in sections of the community". [44b]

5.33 An article in the CMC dated 6 August 2003, mentioned that "Normal commercial activities resumed in the troubled community of lower Mountain View Avenue in eastern Kingston, following a heavy presence and a two-week-old truce among warring factions." Following peace talks on Tuesday [5 August 2003] with representatives of the PMI [Peace Management Initiative] the residents said they were confident that the latest peace talks would result in agreements to settle disputes without violence. [44c]

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Judiciary

5.34 The USSD 2004 noted that "The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was overburdened and operated with inadequate resources." [8](p4)

5.35 The USSD 2004 also mentioned that

"Three courts handle criminal matters at the trial level. Resident magistrates try misdemeanors. A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal." [8](p4)

5.36 On 9 August 2004 as reported in the Jamaica Gleaner "Supreme Court judges are today [9 August 2004], clearing the huge backlog of cases on the trial list in the High Court Division of the Gun Court, King Street, downtown Kingston. Five courts, in addition to the two regular courts, will be sitting until September 10 [2004], to clear the backlog." Two divisions of the Gun Court sit throughout the year to dispose of cases. There had been a backlog in the court for several years, which was caused particularly by the absence of witnesses. [34ac]

5.37 The Jamaica Observer reported on 5 February 2004 that Chief Justice Lensley Wolfe met with [now ex] Police Commissioner Francis Forbes on Monday 2 February 2004. The article stated that

"Wolfe, who has had a contentious tenure since he became the island's top judge in July of 1996, lurched to his latest controversy Monday [2 February 2004] when he met with Forbes, at the police chief's request, apparently to discuss the constabulary's wish for judges and magistrates to place limitations on gang members when they are granted bail. Forbes had told reporters on Friday [30 January 2004] that he wanted to explore whether there was anything in existing laws that would permit the application of such restrictions and the tests that the police would have to meet to satisfy the judges. The police argue that gang members, who are out on bail, often engage in new violence and want this curfew option as part of their arsenal in the fight against crime. But in Parliament on Tuesday [3 February 2004], Opposition Jamaican Labour Party (JLP) members, Abe Dabdoub and Delroy Chuck, sharply criticised the chief justice for entertaining the police commissioner and suggested that it was part of a pattern of unacceptable behaviour, judicial or otherwise, by Wolfe." [36m]

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Caribbean Court of Justice

5.38 The USSD 2004 noted that "The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal." [8](p4)

5.39 A Latin American Press report dated 19 March 2001 noted that the Caribbean heads of Government signed a landmark agreement to establish the Caribbean Court of Justice (CCJ). However, in Jamaica several organisations, including the country's bar association oppose the regional judicial body. It is intended that the new court will replace the British Privy Council as the court of last resort for the region. [13a]

5.40 A BBC Monitoring article dated 16 November 2003 reported that "Edward Seaga, has renewed his call for a referendum on the model of government for the country as well as plans to replace the London-based Privy Council with the Caribbean Court of Justice." [18c] An article in the CMC news agency dated 30 August 2003 reported that "Jamaica's law association and the main opposition party the Jamaica Labour Party JLP have insisted that the Government hold a referendum on the issue." [44a]

5.41 An article featured in the Latin American Press dated 19 March 2001, noted that

"The proposal [CCJ] has faced strong opposition from the Jamaica Bar Association and Jamaicans for Justice, a human rights organisation (LP, Feb. 14 2000). Jamaican Attorney General Arnold Nicholson told the Senate that it was unfortunate that the Bar Association continues to oppose the court. Jones, however, said his organisation opposes not the concept of the court, but the way in which it is being established." [13a]

5.42 The same article said that the Bar Association insisted that the court should be included in the member countries' constitutions to ensure that succeeding governments are not able to withdraw. [13a]

5.43 The Trinidad Business Guardian dated 9 May 2002, mentioned that

"Lex Caribbean [Law Offices] supports the establishment of the Caribbean Court of Justice to replace the London-based Judicial Committee of the Privy Council. It will mean more cases will be adjudicated upon at that level and vast amounts of money will be saved to pursue those cases, said Cecil Camancho, managing partner of De Nobriga Inniss & Co." Camacho went on to say that "The Privy Council is very expensive, not only because of its geographical distance but the cost is very expensive to retain attorneys in England to have them file documents in the case, for example." [32]

5.44 An article in the Jamaica Observer dated 15 June 2004 noted that "The Privy Council effectively ruled on 14 June 2004 that the Jamaican Parliament could abolish appeals to the UK-based court without the need for further major constitutional amendments. This decision was interpreted by the government as removing a substantial hurdle to the island's participation in the Caribbean Court of Justice (CCJ)." [36n]

5.45 The Jamaica Gleaner dated 4 February 2005 reported that the Government is standing firm on its vow to establish the controversial Caribbean Court of Justice (CCJ) as the nation's final court of appeal, despite the ruling on 3 February 2005 by the United Kingdom-based Privy Council that the Government's handling of the process last year where the CCJ bills were passed in Parliament, was unconstitutional. Reacting to the ruling, Prime Minister P J Patterson said that the government's legal team was completing its analysis of the judgement delivered by the British law lords, and that Cabinet will consider the matter fully on 7 February 2005. Mr Patterson stated that 'The Jamaican Government remains committed to the establishment of the CCJ as our final appellate court.' [34cf]

5.46 As noted in the Jamaica Gleaner dated 8 February 2005, the Privy Council's ruling that legislation to establish the Caribbean Court of Justice as Jamaica's final appellate is unconstitutional will be discussed when the Caribbean Community (CARICOM) Legal Affairs Committee (LAC) meet later in the week. [34cf]

5.47 The Jamaica Observer dated 23 February 2005 noted that the PNP vice-president Dr Karl Blythe had broken ranks with his party on the Government's desire to replace the Privy Council with the Caribbean Court of Justice saying that the contentious issue should be decided by a referendum. [36bc]

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Legal Rights and Detention

5.48 Under Chapter 3 section 15 of the Jamaica Constitution 1962 the Constitution provides for the fundamental right to protection from arbitrary arrest and detention. [2](section 15)

5.49 The USSD 2004 noted that "The Jamaica Constabulary Force Act permits the arrest of persons 'reasonably suspected' of having committed a crime. There were some reported incidents of arbitrary arrest during the year [2003], and the authorities continued to detain suspects, particularly those from poor neighborhoods, without bringing them before a judge within the prescribed period." [8](p3)

5.50 The USSD 2004 also stated that

"The law requires police to present a detainee in court within a reasonable time period; however, in practice authorities continued to detain suspects for lengthy periods, which the Government attributed to an overburdened court system..... Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained....There was a functioning bail system." [8](p4)

5.51 The USSD 2004 reported that

"The State provides indigent detainees access to counsel through the legal aid program, and detainees were provided with prompt access to family members." [8](p4)

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Legal Aid

5.52 The human rights organisation Jamaicans for Justice stated in its Jamaica Human Rights Situation report, 2003, that

"The Legal Aid Authority struggles with a budget that is less than one third of what it needs to effectively represent all those who need legal aid. They also have great difficulty getting the police either to inform citizens of their right to counsel or to call the duty counsel when needed. In addition the Ministry of Justice has itself acknowledged the need for a 'Proper streamlining of the Legal Aid System' and last year [2002] threatened to reduce the number of offences for which legal aid was available." [51a](p7)

5.53 A Jamaica Gleaner article dated 27 January 2003 noted that Jamaicans for Justice had produced pamphlets about the Rights of Citizens. Entitled 'Respect yourself, Respect Others Know your Rights' the pamphlets were designed and printed with the assistance of grant funding from the Commonwealth Foundation and the German Embassy. The pamphlets were distributed islandwide and are small wallet-sized documents packed with information, which could provide useful for all citizens of Jamaica. [34]

5.54 The Caribbean Net News on 19 April 2004 reported that

"A revised second edition of the Code of Conduct for Police-Citizen Relations in Jamaica was launched on Tuesday [13 April 2004] by the Inner-City Development Committee of the Jamaica Chamber of Commerce. The revised edition now includes the rights of citizens and the responsibilities of the police in relation to 'night noises', 'finger printing', 'photographing', 'motor vehicles and the road code' and 'child abuse'. National Security Minister, Dr. Peter Phillips said that the

document highlighted for all Jamaicans, 'in the face of levels of criminal violence and crime, which are altogether too high', that the ultimate solution could be found in mutual trust and respect between police and citizens coupled with shared knowledge of the rights and obligations of each party." [62]

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Death Penalty

5.55 According to Amnesty International's Abolitionist and Retentionist Countries dated 12 January 2005 Jamaica retains the death penalty for ordinary crimes. [17](p2-3)

5.56 An Associated Press article on 12 August 2003, stated that "The last hanging was carried out in 1988. Since then, 51 prisoners have been sentenced to death for murder, according to local rights groups." The report noted that in 2002 Prime Minister P.J. Patterson announced he would seek a constitutional amendment to resume hangings to combat violent crime on the Caribbean island. [54c]

5.57 The Associated Press article also stated that, "Efforts to resume hanging have been blocked, however, by the London-based Privy Council -- the highest court of appeals for several former British colonies. In 1993 the court ruled that keeping prisoners on death row for more than five years was inhumane and that their sentences should be commuted to life in prison." [54c]

5.58 An article in the Jamaica Gleaner dated 8 July 2004 noted that in July 2004 the UK Privy Council ruled that the mandatory death sentence was unconstitutional and unlawful, based on the 1992 amendment to the Offences Against the Person Act. [34aj]

5.59 Another Jamaica Gleaner article of the same date reported that the 1992 amendment to the Act paved the way for two categories of murder: capital murder, which attracts the death penalty and non-capital murder for which the sentence is life imprisonment handed down a decision which struck down the mandatory death sentence imposed by the Jamaican Court on persons convicted of capital murders. The ruling means that the sentence for capital murder is discretionary. This means that all 39 prisoners currently on death row must have their sentences reviewed by the Court of Appeal and they must be given the opportunity to challenge the sentence. [34ak]

5.60 The Jamaica Observer dated 8 July 2004 reported that human rights activists welcomed the decision to abolish the automatic death penalty. The Government also conceded that the ruling by the law lords will re-open debate on the future of the death penalty. [36u]

5.61 The CMC news agency reported in an article on 20 September 2004 that

"The Department of Correctional Services [on] Monday [20 September 2004] said it would be seeking legal advice on the status of several death row inmates who have been staging various protests since last week. The department said that 13 inmates at the St Catherine Adult Correctional Centre have been refusing to leave their cells or accept meals. It said their action is to demand that the authorities to review

their death sentences in the wake of June's Privy Council ruling that Jamaica's mandatory death penalty is unconstitutional.... The judgement means that all those sentenced to death since 1992 would have their cases returned to the supreme Court for sentencing." [44]

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Internal Security

5.62 The USSD 2004 noted that,

"The Jamaica Constabulary Force (JCF) had primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF--army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest (although the coast guard had powers of maritime arrest), unless so ordered by the Prime Minister. Two JDF battalions were detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The Prime Minister occasionally authorized the JDF to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses." [8](p1)

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The Jamaica Constabulary Force (JCF)

5.63 According to the Jamaica Constabulary Force [JCF] website the Jamaica Constabulary Force was established in the aftermath of the Morant Bay Rebellion in 1865. [In October 1865, a group of Afro-Jamaicans rescued one of their friends from punishment before magistrates in the nearby town of Morant Bay. Violence followed. Martial law was declared in the district, and in the month-long suppression of the abortive uprising that followed 400 people were killed. [71]] The JCF retains its semi-military character and comprises a system of gazetted and non-gazetted ranks. The Officer Cadre (gazetted rank) are drawn from Jamaican Officers who have been promoted through the ranks from constable. [37a](p1)

5.64 The JCF website also noted that the Force is responsible for the maintenance of law and order, prevention and detection of crime, the protection of life and property, the investigation of alleged crime, and the enforcement of all Criminal Laws. The Commissioner of Police is responsible to the Minister of National Security for the Command and Superintendence of the Force. He administers this responsibility in accordance with a chain of command through which all communication and correspondence are normally channelled. Senior management groups are also formed to complement the Office of the Commissioner. Management groups are organised into activities described as the following portfolios: Administration and Support Services, Operations, Crime, and Special Projects. [37a](p2)

5.65 The USSD 2004 noted that

"The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Faced with rapidly increasing rate of killings, the JCF generally was not effective. The

country experienced the highest level of violent crime in its history and the perception of corruption and impunity within the force were serious problems that contributed to a lack of public confidence in the institution. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms. Failure to protect witnesses led to the dismissal of criminal trials." [8](p3)

5.66 In his undated foreword to the adaptation of the Jamaica Constabulary Force's Five (5) year Corporate Strategy, formatted for the World Wide Web statement of the Corporate Strategy of the [then] JCF, Commissioner of Police, Francis Forbes, said

"Our commitment to 'Serve Protect and Reassure' the people of Jamaica and its visitors was heralded some 3 years ago. Since then the Jamaica Constabulary Force has felt in a state of continuous crisis, coping with the many demands upon us. It has been a reactive, Fire Brigade, style of policing." He went on to say "I am determined to break this reactive spiral and pursue proactive policing methods which will gain the support of the public, support which we need to be truly effective." [37b](p1-3)

5.67 As reflected in an article in the Jamaica Observer on 13 November 2002 the Security Minister Peter Phillips said that both the Jamaica Defence Force (JDF) and the police were engaged in the highest levels of planning and preparation for duties under the New Crime Plan. The New Crime Plan, which was launched in November 2002, formalised the role of JDF in fighting crime in co-operation with JCF. They are gathering the necessary intelligence in undertaking the necessary reconnaissance of the places where they have to go (search) and in training and re-equipping their troops with the tactical expertise necessary and with the determination to succeed. [36a] (For further details of the co-operation between JCF and JDF see below "The New Crime Plan" paragraphs 5.88 - 5.100).

5.68 A Financial Times article, reported by BBC Monitoring, dated 14 February 2003, stated that

"Plans are being formulated for a major restructuring of the Jamaica Constabulary Force (JCF) including new guidelines to deal with the problem of corruption within the service", [then] Police Commissioner Francis Forbes has said. "In addition, the JCF is drafting a new training manual and the establishment of training units across the island and the retraining of trainers." He said that "members of the force would have to undergo annual training and certification for the use of firearms as it moves to modernize its operations." [18a]

5.69 The Jamaica Gleaner dated 8 October 2004 reported that

"The ability of Jamaica's security forces to tackle the island's flourishing drug trade and spiralling crime rate is to be enhanced through a training initiative to be administered by the United Kingdom armed forces. Adam Ingram, State Minister with responsibility of the United Kingdom's Armed Forces, disclosed during a tour of the HMS Richmond yesterday [7 October 2004] that he had met with National

Security Minister, Dr Peter Phillips, to discuss possibilities for 'training the Jamaica Defence Force and the law enforcement agencies to be able to bring those people and their society to justice and to squeeze their organisational capabilities.' ... While not divulging details of the training initiative, the U.K. State Minister said the training exercise would be 'deeper and more intense than the ones we've had before'." [34bu]

5.70 As reported in the Jamaica Gleaner dated 3 February 2005,

"The Country's fight against crime and violence is expected to get a much needed boost come March 1 [2005] when a senior British law enforcement agent will officially join the ranks of the Jamaica Constabulary Force (JCF). National Security Minister Dr. Peter Phillips made the disclosure yesterday [2 February 2005] at a press conference at his Oxford Road office in St. Andrew. 'He will be acting in a supernumerary position,' Dr. Peter Phillips said. 'We believe this development will complement the expertise and capabilities in the JCF.' For some time now, influential voices in the private sector have been calling on the government to seek overseas help in the fight against crime and violence." [34by]

5.71 A Jamaica Gleaner article dated 11 February 2005 reported that "Chairman of the Police Service Commission, Noel Hylton, confirmed that senior Scotland Yard detective Mark Shields is the British police officer who will be seconded to the JCF, effective 1 March 2005." [34cx]

5.72 The Jamaica Gleaner dated 14 February 2005 noted that

"Prime Minister P.J. Patterson last night [13 February 2005] announced that the government would be stepping up the fight against crime with new vehicles, new police stations, new technology, a new Coast Guard base and new foreign expertise. In a broadcast to the nation, he said crime and violence continue to be, 'a most troubling aspect of national life,' pointing to the wanton killing of children and the elderly. 'One hundred new motorcycles are set to be on the streets in another week, in addition to one hundred and fifty new all-terrain vehicles which will arrive next month,' he said. 'This will help to improve the level of mobility by the security forces.' Mr. Patterson added: 'A new Coast Guard base to be established in Black River, St. Elizabeth, later this month is expected to improve surveillance and interdictions of illegal drugs, guns and ammunition along the south coast. The government is also proceeding with legislative action as well as the acquisition of new technology to facilitate greater reliance on forensic science in solving crime.' He said: 'We have recently opened five new stations and a new station will open in May Pen next month [March 2005]. Several existing ones have been repaired and refurbished to improve working conditions for the officers and increase the reach of the force.' 'We have taken cooperation with our international partners to another level with the imminent arrival in Jamaica of personnel from Britain's Scotland Yard in operational roles within the Jamaica Constabulary Force,' the prime minister continued." [34cy]

5.73 The Jamaica Observer dated 7 February 2005 reported that

"St Andrew South, the police division where the bulk of the country's major crimes have occurred over the last 8 years, is one of the troubled spots that will receive attention from cops under the watch of new Police Commissioner Lucius Thomas. 'Initially, the approach calls for a concentration of resources and personnel in the four police divisions which persistently contribute to the high crime rate,' he said during the briefing at the Police Officers' Club in Kingston. In addition to the St Andrew South police division - which had 240 major crimes last year [2004], 77 more than the 163 committed in the area in 2003 - the other hot spots he identified were St Catherine North, St Catherine South and St James.... Thomas said the four divisions will be on the receiving end of co-ordinated and concentrated attention from the police force, but said no new squad or unit was being formed." [36aw]

5.74 The Jamaica Gleaner dated 23 February 2005 noted that the Minister of National Security said that reducing the number of guns in the hands of criminals would be a top priority in the fight against crime. He said a new security initiative would be developed to build and strengthen community capacity to resist attempts at criminal penetration. The initiative will promote crime prevention in at-risk communities. Interest groups will be mobilised at the parish and community levels to cooperate in the development of parish specific crime prevention activities.... The article also stated that

"Minister Phillips also indicated that four initiatives will be implemented to reduce the flow of guns in the hands of criminals including the neutralising of criminal gangs, correcting the variables which contribute to the vulnerability of a community to attacks from outside, providing state protection and the development or enhancement of the social capital of vulnerable communities, as well as separating organised gangs from the means of their sustenance." [34dz]

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Organised Crime Investigation Division (OCID)

5.75 An article dated 2 June 2003 by the CMC reported that, [then] Police Commissioner Francis Forbes on 2 June 2003 confirmed media reports that the controversial Crime Management Unit (CMU) of the Jamaica Constabulary Force had been disbanded and its leader, Senior Superintendent Renato Adams, pulled from operational duties. [44d] [The CMU was set up by Prime Minister PJ Patterson in September 2000 with a mandate to crack down on violent drugs gangs, extortionists and carjackers. [21d] (For more information on the CMU please refer to paragraphs 6.51 - 6.62)

5.76 Following the disbanding of the CMU in June 2003, an article in the CMC news dated 25 August 2003, reported that the

"National Security Minister Dr Peter Phillips Sunday [24 August][2003] stressed that there was no 'quick fix' for solving worrying crime and violence in Jamaica, even as announced that the recently formed Organised Crime Investigating Division (OCID) would be upgraded and given more autonomy. Phillips said that the unit, which is a combination of the skills and human resources of three crime-fighting divisions,

would focus on migratory pattern of crime. This is a new challenge to both the security forces and communities that up to now were not associated with crime ... 'Much emphasis will be placed on curbing the movement of criminals across the country,' said Phillips." [44j]

5.77 The Jamaica Observer reported on 4 October 2004 that

"Just over a year after the Organised Crime Investigation Division (OCID) was formed, it is reporting that it has recovered more than 220 stolen motor vehicles, some of which were swiped in the United States and the United Kingdom; smashed seven car-stealing rings in five parishes; and arrested and charged 15 persons for various offences. And according to Mike Surridge, who heads the division, legislation is being changed to strengthen the law enforcement department." [36ak]

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Kidnapping Unit

5.78 As reported in the Jamaica Gleaner dated 14 August 2004 a new emergency response unit would soon be established in Jamaica. The article stated that "Following a flurry of kidnappings in early May [2004], Superintendent Norman Gordon of the Organised Crime Investigation Division, told The Gleaner that serious consideration was being given to forming a special group within the Jamaica Constabulary Force to deal with such incidents." However, [then] Assistant Commissioner of Police Lucius Thomas said that the unit-in-waiting would not be limited to kidnappings. He said 'It's really an emergency response unit, not necessarily a kidnap unit. They will be equipped to negotiate hostage-taking which is different from kidnapping, and other serious crimes.' [34at]

5.79 The Jamaica Gleaner dated 11 January 2005 noted that [then] Commissioner Francis Forbes requested the assistance of the British intelligence agency, Scotland Yard, to assist with the investigation into the mysterious disappearance of two men, who were allegedly abducted by members of the JCF in December 2004. Mr Forbes told the Gleaner "Investigators have since taken into custody a serving member of the police force, who they believe is a significant suspect."... According to the article this is the third major investigation in recent times that has seen Mr Forbes request the help of Scotland Yard detectives. The article stated that "In 2002, they were asked to assist with the controversial shooting death of four persons in Kraal, Clarendon. In the end, five policemen, including Senior Superintendent Reneto Adams, were ruled charged with murder. Scotland Yard detectives were again asked to assist with the forensic investigations into the October 2003 controversial shooting in Flankers, St. James, which left two elderly [sic] men dead." [34bv]

5.80 The Jamaica Observer dated 16 January 2005 reported that "Members of the UK-based company Task International are now in the island training local cops assigned to the freshly-formed anti-kidnapping unit. The unit was first announced by government last May [2004], as the island reeled from a spate of abductions." [36al]

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Witness Protection Programme

5.81 The Witness Protection Programme is provided for by the Justice Protection Act (Act 23 of 2001). As stated in the Justice Protection Act it is an "Act to Establish a programme or assistance to certain witnesses and other persons." [70](p3)

5.82 The Jamaica Gleaner dated 30 January 2005 reported that "Government is in discussion with its British counterpart to find ways to strengthen the country's witness protection programme." The Sunday Gleaner understands this was an agenda item of National Security Minister, Dr. Peter Phillips' visit to the United Kingdom the previous week. Reports which reached The Sunday Gleaner are that government has asked the United Kingdom to facilitate more local witnesses and for financial assistance. On his return to the island the previous week, Dr. Phillips told Gleaner/Power106 News Centre that he had full confidence in the existing Witness Protection Programme. However, concerns were raised in several quarters about the public's confidence in the facility, especially since a witness in the recent Joel Andem murder trial expressed fear and on account of this, the case against the accused was dismissed. [34d1]

5.83 The same report in the Jamaica Gleaner dated 30 January 2005 noted that

"Chairman for the local human rights group, Jamaicans For Justice, Dr. Carolyn Gomes is among those with little faith in the existing programme. 'We have received a lot of complaints about the programme and have passed them on to Dr. Phillips,' Dr. Gomes told The Sunday Gleaner on Friday [28 January 2005]. Renown human rights activist, Roman Catholic priest Father Richard Albert says if the programme is to become more effective, 'the government will have to find a way to protect witnesses'. 'We need a new intelligence agency, something like the CIA or FBI, not to investigate, but to protect the people,' Father Albert said. He said the rights of certain individuals should be suspended, a gesture which he believes will enhance the police's capability in apprehending the instigators of crime. Opposition spokesman on national security, Derrick Smith said there are some challenges that have been impacting on the programme. For example, the country is too small to effectively hide a witness and there is urgent need for adequate financial resources. 'People are of the view that the programme is run by the police. With the high level of mistrust of the police, there is always a reluctance to go on the programme,' Mr. Smith said." [34d1]

5.84 The Jamaica Observer dated 21 February 2005 reported that national security minister Peter Phillips stoutly defended the government's witness protection programme and appealed to people with vital information not to be afraid to come forward. The article notes that Mr Peter Phillips said

"We have spent a great deal of effort in preparing a successful witness protection programme - we have never lost a witness from the programme - but it means that people will have to be willing to use the programme'. The report also notes that Mr Phillips said 'I want to make an appeal to all the citizens everywhere, because, in the end, it cannot be that after the police have established their cases, have done careful

investigations and made arrests, criminals walk free because witnesses are afraid to come and give the evidence. The number of witnesses who are refusing to testify is 'one of the challenges that we have to confront.'" [36ay]

5.85 The same article in the Jamaica Observer dated 21 February 2005 noted that in the previous two months, two high-profile cases crumbled after prosecution witnesses backed away from taking the witness stand, afraid, they said, that they would be killed. One murder charge was dropped against former leader of the notorious 'Gideon Warrior' gang Joel Andem, after the crown's only witness said he did not want to have to spend the rest of his life looking over his shoulder. The witness said he lived in the community where the crime took place. Then on Wednesday 16 February 2005, the prosecution's case in the Home Circuit Court fell apart in the face of yet another terrified witnesses. As a result, a convicted killer, who escaped from prison in 1999 and was accused of fatally shooting two people two years later, was freed of the double murder. At the preliminary inquiry into the double murder in 2003, two of the three prosecution witnesses did not testify, saying that they did not want to be killed. However, a third witness, who had testified, was shot dead weeks after appearing in court. [36ay]

5.86 The Jamaica Observer article dated 21 February 2005 also stated further that

"In the most recent cases, questions were raised about the reluctance of those involved, to take advantage of the witness protection programme. But there have long been concerns about the integrity of the programme, while talk of a regional programme - that would offer a wider choice of countries to which witnesses could relocate - has so far not moved to the implementation stage. Earlier this month [February 2005], head of Operation Kingfish Assistant Commissioner of Police Glenmore Hinds said a new witness protection strategy was being worked on, fuelling speculation that there may be input from not only the region but also from the US and the UK. However Hinds, who cited the need to keep the details confidential, did not supply much information about the new strategy." [36ay]

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The New Crime Plan

5.87 As reported in the Jamaica Observer dated 13 November 2002, "Security Minister said yesterday [12 November 2002] that the national crime plan will be launched within six weeks, but declined to give a definite date for the launch, claiming he would be giving away something operational. He said the basic purpose of the plan was to dismantle criminal groupings of a paramilitary nature which have been wreaking havoc on communities". [36a]

5.88 A Jamaica Observer article dated 15 December 2002 stated that

"The security forces took their anti-crime initiative, with its curfews and premises-by-premises search for guns and criminals, to the Central Kingston community of Southside yesterday [14 December 2002].... Southside is a pocket of strong support for the Jamaica Labour Party (JLP) in a constituency that votes substantially for the ruling People's

National Party (PNP). In the weeks leading up to the October 16 [2002] general elections, there were constant conflicts between gangs from Southside and nearby Tel Aviv and Matthews Lane, areas that are predominantly PNP." [36b]

5.89 As reflected in a Jamaica Gleaner article dated 13 January 2003 Jamaicans for Justice stated that

"It is, however, becoming increasingly obvious to observers of the Jamaican situation that no serious forward movement can [sic] be achieved on that other major challenge, the national war on crime, without extensive change in how the country is governed. For, in a winner-takes-all system, one political party cannot disarm its followers without committing political suicide. In a system based upon unbridled political rivalry, Machiavellian levels of political dishonesty, and a constant competition to inherit the leader's [sic] seat, even when the leader is still alive, no strong political leader can afford to blink." [34k]

5.90 However, the Jamaica Gleaner newspaper dated 31 January 2003 reported that

"Despite some negative feedback, Dr Peter Phillips, National Security Minister, remains optimistic that the latest anti-crime plan announced by Prime Minister P.J. Patterson on December 1 last year [2002] will be a success. He reiterated that it will remain in place for as long as it takes to break the back of the crime wave which left more than 1,000 persons dead last year [2002]....The difference this time around he said was the multi-faceted approach taken by the Government in tackling the problem. Apart from equipping the security forces to deal with the problem, emphasis is also being placed on the economic and social transformation of the inner-city communities in which the bulk of the crime takes place." [34h]

5.91 The above mentioned report in the Gleaner also noted that Dr Phillips then said "The current strategy involves the deployment of the security forces for long periods in the volatile areas. Sections of Hannah Town in West Kingston and Tavares Gardens (Payne Land) in South West St Andrew have remained under curfew since December 1 [2002] when the initiative was launched. The impact was almost immediate as there was significant reduction in major crimes in these areas." [34h]

5.92 The same report stated that

"Among the initial successes of the new initiative were the recovery of more than two dozen guns, several rounds of ammunition and the detention of several wanted men. But, while there have been successes, there are no reports that gangs that were targeted have been disbanded. The Minister has admitted that the economic and social profile of the country had to change [sic] before crime is brought down to tolerable levels." [34h]

5.93 Following the disbanding of the Crime Management Unit (CMU) in June 2003, an article in the CMC news dated 25 August 2003, reported that

"National Security Minister Dr Peter Phillips Sunday [24 August][2003] stressed that there was no 'quick fix' for solving worrying crime and violence in Jamaica, even as announced that the recently formed Organised Crime Investigating Division (OCID) would be upgraded and given more autonomy. Phillips said that the unit, which is a combination of the skills and human resources of three crime-fighting divisions, would focus on migratory pattern of crime. This is a new challenge to both the security forces and communities that up to now were not associated with crime ... 'Much emphasis will be placed on curbing the movement of criminals across the country,' said Phillips." [44j]

5.94 An article in the CMC news dated 25 August 2003 reported that in an address to the nation, Dr Phillips also responded to criticisms of the government's response to the crime situation and the recent debate over comments by [then] Police Commissioner Francis Forbes that the crime plan initiative by the police had not met its target. He [Dr Phillips] pointed to accomplishments of the security forces and crime statistics, which show that major crimes were down by nearly 30 per cent during the first three months of this year [2003]. However, during April, June and July [2003], there were sharp increases, which virtually erased the gains in the statistics of the first three months, Dr Phillips said. The national security minister further noted that during the month of August [2003] major crimes were down by 11 per cent and murders, by 3 per cent. "The highest number of murders occurred in June [2003], in the week of the local elections," he said. [44j]

5.95 The same article in the CMC noted that up until August 2003 the murder rate stood at 605 since the start of the year [2003] with the murders of 10 persons occurring within a 36-hour period over the weekend of the 23 - 24 August 2003. This figure is four more than the figure recorded for the same period the previous year [2002]. The article further mentioned that Dr Phillips said that "The OCID, headed by a senior superintendent of police, is to be equipped with its own resources and would incorporate the fugitive apprehension and gang intelligence units." In addition, it would include six sub-teams, headed by senior police personnel, targeting criminal gangs and other areas such as carjacking; illegal firearms and ammunition; sex crimes, as well as data processing and cyber-crime investigation. Phillips also announced that closed circuit cameras would be used as a crime fighting tool in sections of the corporate area. [44j]

5.96 On 4 January 2004, the Jamaica Information Service noted that on 7 December 2003, in his Broadcast to the Nation, the Minister of National Security Dr The Hon. Peter Phillips said

"Last Monday [1 January 2004] marked exactly one year since we changed our crime-fighting strategy and launched a new anti-crime initiative with four specific objectives: Apprehend the criminals and break up the gangs; Improve relations between the communities and the Security Forces; Improve social conditions in specifically targeted communities; Encourage the public to support the fight against crime. Tonight, I wish to report to you on how we are doing with the anti-crime initiative and tell you about some of the additional things we'll be doing in the New Year to build on the gains we have made so far." [24a]

5.97 In the same broadcast Dr Phillips said

"So, how are we doing? The truth is that the question is not as easy as it sounds. If I answer with just statistics, they would show a pretty sizable [sic] drop in five of the seven major crimes for which we keep careful and accurate figures. Compared to this time last year [December 2002], murder is down 10 percent; shooting down 13 percent; robbery down 22 percent; breaking-in down 26 percent and larceny down 28 percent. Two other major crimes continue to be of concern - rape remains at the same level as last year [2002] and carnal abuse is actually 28 percent higher." [24a]

5.98 In the broadcast he said "I cannot honestly look you in the eye and say the crime situation will be solved overnight because the problems of crime and violence are complex, needing a sustained and integrated solution. However, what I can say is that the trend is in the right direction despite the challenges and occasional set-backs." [24a]

5.99 As reflected in an article in the Gleaner dated 25 May 2004 the Minister of National Security said that the JDF continues to be a vital component of the security of the country, noting that in addition to its regular functions, the JDF, provides support to other security agencies in crime fighting and law enforcement. The article states that "Over the past year, some 422 persons were enlisted as soldiers and another 18 commissioned as officers. "In the coming year, we intend to continue the recruiting drive, with the training of additional intakes toward achieving the established strength, the Security Minister said." [34ae]

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Operation Kingfish

5.100 The Jamaica Gleaner noted on 20 October 2004 that the Government on 19 October 2004 unveiled another crime-fighting initiative, 'Operation Kingfish', just 24 hours after the Police High Command disclosed that 44 more persons had been killed the previous week. Up to the night of 19 October 2004, the number of persons murdered since the start of the 2004 stood at 1,161, the most to have ever been recorded in the nation's history. Minister of National Security Dr. Peter Phillips, addressing key private sector leaders and reporters at the Hilton Kingston Hotel, in New Kingston, said the latest crime plan would target the leaders of an estimated 85 active criminal gangs, located across inner-city communities islandwide. He said 'The main aim of the task force is to break up the organised and dangerous criminal gangs that are at the root of the most of the gun violence.' [34bz]

5.101 As reported in the Jamaica Gleaner dated 22 October 2004, "Operation Kingfish will be supported in its operations by elements of other arms of the security forces such as the Special Anti-Crime Task Force (SACTF), Flying Squad, the Organised Crime investigation Division (OCID) and the JDF." [34ca] The Jamaica Gleaner dated 26 October 2004 reported that Operation Kingfish was probing at least 12 gangs that are said to be major players in organised crime. While declining to name the 12, [then] Deputy Commissioner of Police Lucius Thomas described the gangs as being highly organised and influential in narco-trafficking, extortion and gun-running." [34cb]

5.102 On 6 November 2004, the Jamaica Gleaner reported that according to Glenmore Hinds, assistant commissioner of police in charge of the operation, more than 400 telephone calls had been made to 811, the hotline for Operation Kingfish. ACP Hinds told the Gleaner that "Right now we are processing 34 of the calls to take further action." [34cc]

5.103 As reported in the Jamaica Gleaner dated 12 November 2004

"Operation Kingfish was launched following a spate of killings which saw the island's murder rate skyrocketing to well over 1200 a record high. Security Minister Dr. Peter Phillips, in a nation wide broadcast, explained that 'the main aim of the task force is to break up the organised and dangerous criminal gangs that are at the root of most of the gun violence.' He pointed out that Operation Kingfish was also geared towards restoring community confidence and reducing the fear of crime 'so people can get on with their normal day-to-day activities.' The minister said known organised criminal gangs and their activities were targets, warning that nobody would be immune from prosecution." [34cd]

5.104 The Jamaica Gleaner dated 22 November 2004 noted that so far up to 22 November 2004 Operation Kingfish had recovered 7 stolen motor vehicles; seized 13 illegal firearms; seized over 227 kilograms (500lbs) of compressed ganja; destroyed 2 sophisticated ganja fields; arrested several persons for various offences including murder and illegal possession of firearms; and seized, in Caribbean waters, several go-fast boats and almost eight tons of cocaine destined for Jamaica. [34ce]

5.105 As reported in the Jamaica Gleaner dated 15 February 2005 police officials were grilling alleged gangster Kevin 'Richie Poo' Tyndale since he was arrested in a police operation in Black Shop on the morning of 12 February 2005. Senior Superintendent Denver Frater, of Operation Kingfish who has spearheaded the operation in which he was held said "We have been questioning him in the presence of lawyers and based on what has transpired, he should be charged this weekend." [34cu]

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Commissioner Forbes's resignation & Lucius Thomas's appointment

5.106 The Associated Press noted in a report on 2 January 2005 that Jamaica's police commissioner resigned following the previous year's [2004] record number of homicides in the Caribbean country. The article then stated that "Jamaica, an island nation of 2.6 million people, reported a record 1,145 homicides for 2004, compared with 975 the year before [2003]. Police blame much of the violence on street gangs vying for control of lucrative drug and extortion rings.... Opposition political parties welcomed Forbes' resignation, saying he had failed to implement effective anti-crime strategies during his eight year tenure." Derrick Smith, the opposition Jamaica Labour Party spokesman on security issues said 'During the period he has been commissioner there have been 8,560 murders and the year [2004] just completed has been disastrous.' [54e]

5.107 As mentioned in the Jamaica Observer dated 4 January 2005

"Lucius Thomas last night [3 January 2005] won support from key constituencies in the constabulary after he was formally named to succeed Francis Forbes as Jamaica's police chief. But there were calls from rank-and-file cops for Thomas to receive the support from the wider community and the government if he is to be successful in pushing through further reforms in the force and make gains in the fight against crime." [36am]

5.108 The same Jamaica Observer article noted that Thomas joined the JCF in 1969 and in 2001 was promoted to deputy commissioner of police in charge of the crime portfolio. [36am]

5.109 The Jamaica Gleaner dated 4 January 2004 noted that Police Commissioner Thomas said that managing and reducing the country's frightening homicide rate would be his main priority. The article stated "Responding to questions about his main priorities at this time, Mr Thomas said he will be guided by the Jamaica Constabulary Force's (JCF) Corporate Strategy Plan and will continue to look at the organisation internally. He also plans to tackle the problem of corruption." [34bw] The Jamaica Gleaner dated 20 January 2005 noted that Lucius Thomas was sworn in as Jamaica's 25th police commissioner on 19 January 2005. [34bx]

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Prisons and Prison Conditions

5.110 According to the USSD 2004

"Prison conditions remained poor and often were characterized by overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care. There were no reports of prison riots. There were at least two reports of riots at police detention centers. ... A separate prison for women--the Fort Augusta Women's Prison--was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Fort Augusta was also relatively safer and had less violence than the men's prisons, despite inmate complaints of beatings by guards. The Constitution prohibits the incarceration of children in adult prisons; however, in practice, some juveniles were held with adults. The majority of pretrial detainees were held in police custody, either in police stations or in remand centers, separate from convicted prisoners. In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year." [8](p3)

5.111 Amnesty International noted in their Annual report 2004 'Covering events from January - December 2003' that

"Conditions in prison and other places of detention were harsh and in many cases amounted to cruel, inhuman and degrading treatment. Severe overcrowding was commonplace. The Tower Street Correctional Centre and the St Catherine Correction Centre both reportedly housed at least twice the number of prisoners for which they

were originally built. Many prisoners were forced to share small cells and to defecate and urinate in buckets in their cell. Tuberculosis was present in at least one prison, Tamarind Prison, causing it to be closed to new prisoners for several months. In September [2003], two prison guards were dismissed after being found guilty of beating prisoners in the Horizon Remand Centre. To AI's knowledge no criminal charges were brought against the officers involved." [91](p2)

5.112 As stated in the USSD 2004, " During the year [2004], at least two detainees died while in police custody; there was no evidence of negligence." [8](p2) The USSD 2004 continued "There were no new developments and none were expected in two 2002 cases of prisoners in Bull Bay and Manchester police lockups who died in police custody." [8](p3)

5.113 The Jamaica Gleaner dated 1 December 2004 noted that prison inmates were increasingly turning to drugs to cope with worsening conditions in the island's overpopulated penal institutions. One government psychiatrist is calling for the government to take a serious look at building another prison to deal with the current overflow. 'While I don't have statistics with me, over the last year or so we have seen a significant portion of persons using drugs. We did an informal survey among the inmates and many say they are now using drugs because it helps them to serve the sentence,' said Emerson Banks, director of rehabilitation in the Department of Correctional Services. [34ci]

5.114 An article in the Jamaica Gleaner dated 2 October 2004 noted that the Government would be bringing legislation to Parliament within the next six months in an attempt to put a stop to the wide-scale disappearance of mentally challenged inmates within the prison system, according to Minister of Justice A J Nicholson. Mr Nicholson told the Senate in October 2005 that the Government would be bringing amendments to the Criminal Justice Administration Act, which would require the court to keep a register of persons deemed unfit to plead or who have been convicted but found to be insane. 'Given that the situation is intolerable, the Government has been considering ways of ensuring that persons with mental difficulties are monitored more carefully by the courts,' Mr Nicholson, who is also the Attorney-General, said during his contribution to the State of the Nation debate. [34cg]

5.115 On 15 November 2004, the Jamaica Gleaner reported that mentally ill persons who commit minor offences could receive psychiatric treatment in community settings instead of being sent to prison, in keeping with a proposal from a government-led task force. Nancy Anderson, human rights lawyer agreed. "The move, she said, should help to reduce the number of mentally ill persons who go to prison for minor offences. 'The aim is that instead of having them arrested, it would mean diverting them from the courts into a programme where they can be treated,' said Ms Anderson, who has been instrumental in getting several mentally ill persons released from prison." [34ch]

5.116 The Jamaica Gleaner dated 28 February 2005 reported that

"New Legislation to provide better protection for hundreds of mentally ill inmates within the penal system is expected before Cabinet in two weeks. Senator A.J. Nicholson, minister of justice and attorney-general,

told The Gleaner recently that the legislation has been completed and could also be tabled in Parliament before the end of the legislative year....However, the justice minister admitted that, with little time remaining before the end of the legislative year, it was unlikely that the bill would be passed until after the beginning of the 2005/2006 session." [34en]

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Military Service

5.117 The War Resisters' International 1998 publication Refusing to Bear Arms noted that, "Conscription has never existed since independence was achieved in 1962. There is no legislation providing for conscription. The legal enlistment age is between the ages of 18 and 24." [27]

Conscientious Objection

5.118 The same publication noted that "There is no known legal provision for conscientious objection. In 1998 the government stated that, as military service is voluntary, the question of Conscientious Objection status does not apply." [27]

Draft Evasion and Desertion

5.119 War Resisters International 1998 also noted that "Desertion is punishable by up to two years' imprisonment in peacetime. In wartime desertion is punishable by firing squad execution." [27]

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Medical Services

5.120 The Pan American Health Organisation, in its 2002 country profile of Jamaica stated that "The health system offers primary, secondary and tertiary care Secondary and tertiary care are offered via 23 government hospitals and the teaching hospital of the University of the West Indies, with a combined capacity of 4,802 beds." [42](p9)

5.121 An undated National Health Insurance Plan Green Paper (NHIP Green paper) noted that

"The National Health Insurance Plan (NHIP) is a contributory health financing plan aimed at covering all residents of Jamaica for a stipulated package of medically necessary services. It is designed to assist individuals and families in meeting the high costs of health care without suffering financial distress and to provide dedicated resources for enhancing the availability and quality of health services. It is a critical component of the overall Health reform Programme currently being implemented to improve the delivery, management and financing of health services." [46](p1-2)

5.122 The Jamaica Gleaner reported on 11 October 2004 that

"The House of Representatives last Tuesday [5 October 2004], passed legislation seeking to amend the Medical Act by stipulating that requirements of continued medical education be satisfied prior to the

issuance of a practising certificate. The legislation also seeks to increase membership of the Medical Council to 15 persons.... Piloting the Medical (Amendment) Act in the House on Tuesday [5 October 2004], John Junor, Minister of Health, explained that 'We have long been advocating the need for continuing education in all areas as part of the conditions for re-registration of these professionals.' 'We have succeeded so far in having it in the nursing field and we are now extending it to medical practitioners, because we feel it adds value to the service that our citizens get from practitioners, he added.' [34c]

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National Health Insurance Programme (NHIP)

5.123 The key features of the National Health Insurance Programme (NHIP) are:

- Universal Coverage - The National Health Insurance Programme will provide guaranteed access to the package of health services for all residents regardless of age or health condition;
- Service Package - The NHIP will cover a service benefit package - the Standard benefit Package - consisting of inpatient care, laboratory and diagnostic tests and pharmaceuticals. Others services will be included in later years if deemed necessary and affordable;
- Mandatory Health Insurance - The NHIP will be mandatory, that is, everyone will be required to have (purchase) health insurance for the Standard Benefit Package. The government will be responsible for insuring the medically indigent; and uninsured persons will be required to meet the full cost of health care;
- Choice of Insurer - Health insurance for the standard Benefit Package can be bought either from a public health insurance agency (to be established) or from competing health insurance carriers;
- Choice of Service Provider - Services in the Package will be available in public and private health facilities;
- Catastrophic Care - A Catastrophic Care Fund for very costly and sophisticated services will be established with resources coming from health insurance premiums and other sources;
- Management - The NHIP will be administered by a broadbased independent and non-profit body, the Health Insurance Commission, which will be subjected to clearly defined performance and accountability requirements. [46](p1-2)

5.124 The National Health Fund website accessed 5 March 2004, noted that

"The National Health Fund was officially launched on November 28, 2003 by the Prime Minister, Most Hon. P.J. Patterson. The Prime Minister, in his speech commended the Minister of Health, and CEO of the NHF for their hard work in getting the NHF started. In expressing his confidence in the success of the NHF the Prime Minister said, 'As we embark on this new phase in the provision of health care services to our people, I have every confidence that the National Health Fund will make a significant difference to the health and well being of our people, with all the resulting social and economic benefits'". [28]

5.125 As reported in the Jamaica Gleaner on 1 November 2004 "The Ministry of Health, through the National Health Fund (NHF), will be increasing the subsidies on pharmaceutical items that are covered under the fund, from 25 per cent to between 35 and 50 per cent effective November 1 [2004]. In addition, the fund will also be adding more than 250 new pharmaceutical items, representing more than 70 drugs at a cost of \$23 million to \$30 million." The Health Minister, John Junor stated that 'The expansion of the prescription items to over 800 and the increase in subsidy, which goes from 35 per cent to 50 per cent, mean that access to medical treatment will, in fact, be improved and patients and their doctors now have a greater choice.' [34ck]

5.126 The Pan American Health Organisation 2002 country profile noted that "The Ministry of Health established the Standards of Regulation Division in 1999. The Division developed standards for maternity centres and nursing home staff; protocol for the management of chronic diseases were developed and a criterion-based clinical audit was introduced to survey the competence of health professionals in the management of major obstetrical emergencies." [42](p8)

5.127 The Jamaica Observer dated 9 March 2004, reported that on 8 March 2004 the University Hospital of the West Indies (UHWI) opened its newly refurbished \$4-million obstetrics and gynaecology ward. The Chief Executive Officer Stephannie Reid immediately announced plans to upgrade the accident and emergency department and build a new operating theatre and intensive care unit. [36o]

5.128 An article in the Jamaica Gleaner dated 5 May 2004 stated that doctors are having to make decisions about the procedures they can do following the continuation of an acute shortage of supplies in the health sector. Hospitals reportedly are short of basic supplies such as gloves, bandages, alcohol and medication. Reports reaching the Gleaner are that some of the hospitals in the southern part of the island have been experiencing a shortage of drugs, while hospitals in the Corporate Area are short of gloves and bandages. [34bo]

5.129 On 3 August 2004 the Jamaica Gleaner reported that the Cornwall Regional and Port Maria Hospitals are to undergo upgrading and repairs as part of the National Health Fund's (NHF) institutional benefits programme. The board of the NHF has approved \$214.56 million for several projects in the public health sector which include repairs at these facilities. [34ag]

5.130 The Jamaica Gleaner dated 19 October 2004 noted that two surgical machines had been donated to Port Antonio Hospital. One of the machines is an electro surgical machine designed for the operating theatre and is used for containing blood loss during surgery. The other machine is a diathermy X-ray processing machine, which would speed up X-ray scans, normally done manually. [34cl]

5.131 On 3 February 2005, the Jamaica Gleaner reported that the Spanish Town Hospital had received a major boost to its capacity to care for premature babies. Three incubators, medicines, gloves and other surgical items were donated to the Neonatal Unit. [34cm]

5.132 According to the website of the Bustamante Hospital for Children accessed 7 August 2003

"Since its inception, Bustamante Hospital for Children remains the only specialist pediatric facility in the English-speaking Caribbean. As much, being a major referral institution committed to the care and well being of children from birth to twelve years old, our patient population is drawn from the entire island of Jamaica and occasionally other countries within the region. Today, a comprehensive range of diagnostic, preventative, curative and rehabilitative services are offered in pediatric medical, surgical specialties and subspecialties. An Intensive Care Unit provides critical care service to critically ill patients. The Accident and Emergency Department operates on a twenty-four hour basis throughout the year. In addition, specialist clinics are held five days per week in the Outpatient Department. The hospital has a total bed complement of two hundred and ninety-two (292), distributed in ten wards and the Intensive Care Unit." [14](p2-3)

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HIV/AIDS

5.133 The Jamaica Information Service, last updated 5 March 2004, reported that the country's Health Ministry has been trying to get a message of 'protect yourself' across to the population since the first case of AIDS was reported in the island in 1982. "The disease has now become the second leading cause of death in the country for men and women in the age group 30-39 years, with approximately 1.5 per cent of the adult population estimated to be HIV positive. In the year 2000, 12 persons were reported to have died of AIDS in Jamaica every week." [24b](p1-2)

5.134 The same article in the Jamaica Information Service, noted that

"Statistics indicate that the disease is most prevalent in the heterosexual population, which accounts for about 61 per cent of all infections, 25 per cent of transmission have not being [sic] determined, 6 per cent credited to the homosexual population, while there are no reports of transmission from intravenous drug use. Health workers have also found a high infection rate among commercial sex workers and persons with a history of sexually transmitted infections." [24b](p1-2)

5.135 The same article in the Jamaica Information Service noted that since 1995, new infections have been increasing sharply among adolescent females who have three times higher infection rate than males of the same age group. Researchers claim that poverty, ignorance, early sexual experience with older men and embarrassment to seek advice on protection is responsible for the increase among adolescent females. [24b](p1-2)

5.136 The Jamaica Information Service article also noted that the Government from as early at 1988, had put a number of measures in place to stem the transmission of the disease, including the establishment of a National HIV/Sexual Transmitted Disease (STD) Prevention and Control Programme, which is a comprehensive integrated disease prevention, health promotion programme directed towards behaviour change in individuals. [24b](p1-2)

5.137 The National AIDS Committee [NAC] - Jamaica website (accessed 5 March 2004) states that the NAC has four main functions;

"To advise the Minister of Health in Jamaica on policy issues relevant to HIV/AIDS & STIs; to involve all sectors of the Jamaican Society in efforts to prevent and control HIV/AIDS & STIs; to act as a central body where ideas, experiences and questions about HIV/AIDS & STIs in Jamaica can be shared, discussed and addressed; to provide a sustainable means of supporting the initiatives of the NAC and member organizations by eliciting funds from fundraising activities, public and private sector participation." [45c]

5.138 The NAC website accessed 8 February 2005, noted that there are a number of local organisations working with AIDS and HIV. [45a] The NAC also noted that there are a number of International Organisations based in Jamaica working with AIDS and HIV. [45d] The NAC have also provided a summary of organisations working with HIV/AIDS [45e] and a list of Hospice Services. [45f]

5.139 An article in the CMC on 22 August 2003 noted that the United Nations Family Planning Association (UNFPA) announced that Jamaica and Surinam would benefit from a US \$2.1m agreement signed between the European Commission, UNFPA (United Nations Population Fund) and the Surinam Government. The Jamaican-based representative of UNFPA said that the three-year project will be placed on the reduction of maternal mortality as well as HIV/AIDS prevention among people in rural and urban settings, especially the marginalised and disadvantaged. [44g]

5.140 On 17 May 2004 the Health Minister John Junor signed the Global Fund Grant Agreement in Geneva, making Jamaica the first English-speaking country to sign for the global fund for HIV/AIDS, TB and malaria according to an article in the Jamaica Observer dated 18 May 2004. Jamaica's proposal for a grant of US\$23 million to assist in the fight against the HIV/AIDS epidemic over the next five years was approved in October 2003. [36r]

5.141 As reported in the Jamaica Observer dated 16 June 2004, in June 2004, the US Ambassador to Jamaica signed a grant agreement on behalf of the United States Agency for International Development (USAID) for assistance to the Jamaica Aids Support - the local group which provided assistance for persons suffering from HIV/AIDS virus. The report says that Jamaica Aids Support will be getting US\$200,000 from USAID and US-based pharmaceutical company Merck Sharp and Dohme to assist with its programmes. [36s]

5.142 As noted on their website, accessed 8 February 2005, Jamaica AIDS Support was founded in 1991 and today is Jamaica's oldest and largest AIDS, human rights, non-government organisation. They currently have three chapters - Kingston, Ocho Rios and Montego Bay - thirty-three members of staff and over three hundred volunteers. [43]

5.143 The National AIDS/STD committee launched a website on 7 July 2004, which will assist in educating the Jamaica youth about HIV/AIDS and lead to a decrease in the number of people getting the disease. According to the article

in the Jamaica Observer dated 8 July 2004, is the last project being funded by the Inter-American Development Bank under the technical assistance programme, provides information for youngsters on HIV and other STIs. "The site - - will also display information on additional issues relevant to young people, namely information on abstinence, basic information about HIV/AIDS and STIs, a chat room, instructions on how to use the male and female condom and a risk assessment quiz." [36t]

5.144 As reported in the Jamaica Gleaner on 22 October 2005 the City of Kingston Co-operative Credit Union (COK) will be giving \$2 million over the next four years into an HIV/AIDS fund to help support organisations involved in prevention and care programmes. The President of the COK, Joscelyn Jolly, said that "Despite the alarming statistics in Jamaica and the Caribbean, we would dare hope that we would one day not be known as the region outside of sub-Saharan Africa with the largest number of HIV/AIDS cases but that instead, we would be known as the region which successfully overcame one of the greatest challenges of the 21st century." [34cn]

5.145 The Jamaica Gleaner noted that according to the Medical Officer of Health for St Mary, Dr San San Win, HIV/AIDS is on the rise in the parish of St Mary with the past three years recording consecutive growth in the number of reported cases of the disease. In a report Dr Win said that from a total of nine cases of HIV in 1994, there were 31 in the year 2001; 33 in 2002; 43 in 2003 and 51 last year. [34cq]

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HIV/AIDS Sufferers

5.146 The USSD 2004 noted that "Violence against individuals suspected or known to be homosexuals occurred, as did violence and discrimination against persons living with HIV/AIDS." [8](p1)

5.147 A Human Rights Watch report dated 16 November 2004 reported that, "Widespread violence and discrimination against gay men and people living with HIV/AIDS in Jamaica is undermining government measures to combat the country's fast-growing epidemic.... Gay men and people living with HIV/AIDS face serious violence, and are often forced to abandon their homes and communities. Health workers often provide them with inadequate healthcare or deny them treatment altogether." [64a] Reacting to the Human Rights Watch report dated 16 November 2004, the Jamaica Gleaner dated 17 November 2004 reported that "Human rights organisations yesterday [16 November 2004] accused the government and the police force of turning a blind eye to the rampant abuse of homosexual males and persons living with HIV/AIDS." [34cp]

5.148 The Jamaica Observer dated 31 January 2005 noted that the Ministry of Health estimated that there are 22,000 Jamaicans living with the HIV/AIDS virus. [36ao]

5.149 An article in the Global Information Network, IPS Newsfeed dated 28 August 2002 reported that, Jamaica's Health Minister John A. Junor stated in public that 'discrimination and stigmatisation' has resulted in job losses and violence against people battling with AIDS. The island's chief medical officer, Peter Figueroa, admitted that stigma and discrimination drive people

underground. 'If we are to address the epidemic we have to be able to accurately gauge the number of HIV cases across the island,' he said. In 2001, the Jamaica National Aids Committee proposed changing some 20 laws that activists said discriminated against people affected by HIV/AIDS. The head of Jamaica Aids Support (JAS), Ian McKnight said 'The proposals are about the expansion of the Public Health Act to cover care, support and prevention of HIV/AIDS. It is about care and support for those with the disease and prevention for those without.' But the proposals are far-reaching in a country where being HIV-positive could mean losing one's home, family or even life, due mainly to the threat of violence. As a result, many people refuse to take the HIV test. In fact, one-third of all HIV/AIDS cases are diagnosed after death, says the health ministry. [15a]

5.150 A report in the Jamaica Observer on 5 April 2003 noted that a professor from the University of the West Indies asserted that Jamaica and the Caribbean should adopt legislation to ensure that people infected with HIV/AIDS are not discriminated against in the workplace. Rose-Marie Belle Antoine, a lawyer and lecturer at the University of the West Indies said "Laws are needed not only to ensure that infected persons get jobs but that they are able to retain them." [36d]

5.151 Following this another Jamaica Observer article dated 10 April 2003 noted that, the Ministry of Health's National HIV/STI Control Programme (NCHP) formally forged a media alliance and launched a campaign to remove the stigma associated with HIV/AIDS virus. Dubbed 'Live Positive' the campaign will essentially seek to create a more supportive environment for people living with HIV/AIDS – more commonly known as PLWA. [36e]

5.152 Persons living with HIV/AIDS who suffer discrimination may soon be able to take legal action according to an article in the Jamaica Gleaner dated 1 August 2004. The article stated that "Chairman of the National AIDS Committee and Public Defender, Howard Hamilton, announced a project on Friday [30 July 2004], which proposes to enact legislation to tackle HIV/AIDS-related stigma and discrimination." The draft legislation for Jamaica will have as one of its components, compensation for those whose rights have been breached. It will aim at correcting abuses, not just in the public sector but the private sector as well. [34ah]

5.153 The National AIDS Committee website, accessed 15 October 2002, noted that the National AIDS Committee (NAC), is a private NGO established in 1998 by the Ministry of Health to co-ordinate the national multi-sectoral response to the AIDS epidemic in Jamaica. The NAC has strong links with the National HIV/STI Control Programme (NCHP), representatives from both private and public sector organisations, NGOs and community based organisations (CBOs). [19a]

5.154 The Jamaica Observer dated 20 October 2004 reported that Jamaican employers are now restricted, by international code, from screening workers for HIV/AIDS, whether they are new recruits or persons already on the job. And for those employees known to have the virus, it now cannot be cause of their dismissal. [36an]

5.155 The Jamaica Gleaner on 27 October 2004 noted that a new campaign to reduce levels of stigma and discrimination against HIV-infected and affected persons and other socially vulnerable groups has been launched by the Jamaica AIDS Support (JAS). This campaign is made possible through funding from the United Nations Global Fund on Tuberculosis, malaria and AIDS and in partnership with the National AIDS Committee (NAC). [34co]

5.156 As reported by the Jamaica Gleaner dated 11 February 2005, in January 2005 two children were turned away from schools in St Mary and St Ann because they were HIV-positive, Donna Marie Hamilton-Ross chairperson of the St James Parish AIDS Action Committee told the Gleaner.

"This, she said was a direct contravention of policies and guidelines set out by the Ministries of Health and Education." She confirmed that her organisation has written to the Public Defender, Howard Hamilton, asking him to file a law suit against the two private preparatory schools. Mr Hamilton confirmed that his office had received the complaints from the ASIDS Action Committee and said his office would be investigating the matter. Dr Peter Figuera, chief of Epidemiology and AIDS in the Ministry of Health said "There is a written Government policy that applies to all schools and people need to abide by it." [34cw]

5.157 However, according to the Jamaica Gleaner dated 24 February 2005, the Ministry of Education made arrangements for the one of the schools to take one of the children, the younger boy, aged 8 years old, but not until September 2005. However, the school is saying that the other boy is two months too old and therefore they cannot take him. [34ef]

5.158 The Jamaica Gleaner dated 16 February 2005 noted that another two HIV-positive students from basic schools in St Catherine and Kingston, had been thrown out of school because they are HIV-positive. The article stated that

"The Ministry of Education yesterday [15 February 2005] issued a strong warning to educational institutions islandwide, following reports that two more students have been booted out of school because they are HIV-positive. The ministry is warning that no student should be denied admission or continued attendance because of his or her HIV status.... The ministry said that it has not made much progress with its investigations into reports about the two basic schools, where administrators reportedly asked parents and guardians to remove the children." [34cz]

5.159 The Jamaica Gleaner dated 22 February 2005 reported that

"The Health Ministry is taking steps to ensure that there is legislation or regulations which speak directly to discrimination based on HIV status. No legislation which directly addresses this type of discrimination now exists in Jamaica. 'From our side, the Ministry of Health's National AIDS Programme and the National AIDS Committee, have revised the existing laws and regulations where necessary, for the government to look into or enact new legislation,' Dr Yitades Gebre, executive director of the National HIV/AIDS Prevention and Control programme, told the

Jamaica Information Service (JIS) recently. He said that this information has been provided to the Attorney-General's Department and that the Ministry is now awaiting directives as to whether new legislation would be introduced or existing laws would be strengthened." [34do]

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Availability of Anti-retrovirals

5.160 According to the National Aids Committee website accessed 8 February 2005 - a large number of medication is available in Jamaica for treatment of HIV/AIDS. [See source [45b] for more information] [45b]

5.161 The Jamaica Observer dated 31 January 2005 reported Dr Figueroa, the chief of epidemiology in the Ministry of Health, announced that persons who test positive for HIV/AIDS can now access anti-retroviral drugs at 14 clinics islandwide. [36ao]

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People with Disabilities

5.162 According to the USSD 2004,

"No laws mandate accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Statistical Institute of Jamaica reported that out of a disabled population of approximately 163,000, about 14 percent was employed." [8](p8)

5.163 An article in the Jamaica Gleaner dated 21 July 2004 reported that "By mid-August [2004], members of the disabled community in the Corporate Area will be able to park their motor vehicles anywhere in the city." [34ai]

Mental Health Care

5.164 The Department of Health and Substance Dependence, WHO, Geneva: 2002 Country Profile noted that, "Jamaica has a Mental Health Act. Under the new Mental Health Bill, provisions have been made for the admission of patients, whether voluntary or involuntary, and the designation of psychiatric facilities for the mentally ill." Mental health facilities include disability benefits for persons with mental disorder, care provisions in the primary health care system, and actual treatment of severe mental disorders in primary care. [48] According to the Pan American Health Organisation, Country Health Profile 2002: Jamaica, "In 2000 schizophrenia accounted for 49 percent of patients seen at mental health clinics in Jamaica." [42](p7)

5.165 The Division of Health Systems and Services Development (HSP) 2000 - 2001, published in August 2002, noted that

"Jamaica has several post basic programs in psychiatric nursing offered by the Ministry of Health. Mental health officers are trained to deliver comprehensive mental health services in a continuum of care-

home, community, health center, psychiatric hospital, and general hospital. The programs are made available to all persons in the Caribbean and are offered based upon needs in the system." [22]

5.166 The Jamaica Gleaner dated 9 February 2005, reported that mental health services in Jamaica is delivered through a three-pronged system consisting of the residential Bellevue Hospital, out-patient community mental health services at primary health care facilities islandwide, and residential out-patient rehabilitation units such as the Ken Royes Rehabilitation Centre [in Spanish Town, St Catherine]. [34cs]

5.167 Another Jamaica Gleaner article dated 8 February 2005 mentioned that in Jamaica, this approach to caring for the mentally ill, is fully endorsed by the Government, at least on paper. In less than three years, the Government expects to make a full policy shift from institutionalised-state care to community-based care for the nation's mentally ill. The budget for Bellevue was significantly cut to \$380 million in 2004/2005 from \$499.5 million the previous year. The argument is that more people could be helped from the limited funds that the Government has to spend. [34ct]

5.168 As mentioned in the World Health Project (WHO): Country Profile - Jamaica issued in 2002 the following therapeutic drugs are available in Jamaica; Carbamazepine, Phenobarbital, Phenytoinsodium, Amitriptyline, Chlorpromazine, Diazepam and Haloperidol. [48]

5.169 As noted in the WHO Country Profile 2002 primary care, including mental health care is performed by more than 1200 general practitioners across the island. They refer the more serious cases to psychiatrists. [48]

5.170 The WHO Country Profile 2002 also noted that continuity of public policy and fiscal support has ensured the ongoing development of the island's community mental health services. The National Community Mental Health Service relies on trained psychiatric nurse practitioners who provide crisis management, medication, supportive psychotherapy, and make home visits. More patients are treated within the community than in hospitals. [48]

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Cardiac Disease and Treatment

5.171 As noted in the Jamaica Foundation For Cardiac Disease (JFCD), "In Jamaica the number of those suffering from chronic as well as congenital cardiac disease is rising rapidly. If they are not treated soon after diagnosis, persons with heart disease may be deprived of a normal and healthy life. Treatment and tests include echocardiograms, cardiac catheterization, valve replacements and coronary bypass surgery." [49]

5.172 According to their website, accessed 3 August 2004, the JFCD is a voluntary non-profit, non-governmental organization founded in 1994. They assist persons with cardiac surgery treatment including children. They assist adults and children with cardiac studies and tests. They assist patients with the purchase of pacemakers, valves, drugs and other materials. [49] According to a Global Information Network article dated 3 March 1999 the JFCD has developed a good reputation for facilitating subsidised and free heart surgery, particularly for children. [15b]

Educational System

5.173 Europa Regional Survey 2005 noted that primary education was compulsory in certain districts, and free education was ensured. The education system consists of a primary cycle of six years, followed by secondary cycles of three and four years, respectively. [1](p571)

5.174 The Task Force on Educational Reform report 2004 on Jamaica entitled 'A Transformed Education System' noted that, "The education system caters to approximately 800,000 students in public and private institutions at the early childhood, primary, secondary and tertiary levels. Over 22,000 teachers are employed in 1,000 public institutions. Only 20% of teachers are trained university graduates. The Government currently spends over \$30 billion on education, with households estimated to spend an additional \$19 billion." [69](p9)

5.175 The same 2004 Task Force report stated that "Despite high enrolment rates, significant curriculum reform and other efforts, performance at all levels of the system has been well below target as measured by student scores on national and regional assessments and performance in relation to the critical minimum targets set out in the White Paper of February 2001." [69](p10) It also stated that "Primary education is provided for 328,362 children 6-11 years in grades 1-6 of public primary, all-age and primary and junior high schools and privately owned preparatory schools." [69](p51) "Secondary level education is offered to 245,124 students, in the age group 12-16 years in grades 7-11. An additional two years is offered to a small proportion of students in some high schools. There are five types of institutions offering secondary education namely: All-Age, and Primary and Junior High which terminate at grade 9. High Schools, Technical and Agricultural schools offer five years of secondary education, terminating at grade 11." [69](p54)

5.176 The 2004 Task Force report also stated that "The Caribbean Examinations Council (CXC) is the major examining body in the region in respect of secondary school leaving examination. It has developed 50 syllabuses 19 at the basic proficiency level, 33 at the general proficiency level and 3 at the technical proficiency level. The Council offers examinations in all syllabuses at the May/June administration. Since 1998, grade 3 has been accepted as a passing grade for matriculation to tertiary level institutions." [69](p56) According to the report "There are marked differences in the performance of boys and girls throughout the education system, with girls "outperforming" boys consistently except in CSEC Mathematics." [69](p56)

5.177 As recorded in Europa Regional Survey 2005, UNESCO estimated that in 2001, 87.3% (males 83.4% and women 91.0%) were literate. [Source:UN Development Programme, Human Development Report]. [1](p563)

5.178 The CMC dated 13 August 2003 reported that

"The Ministry of National Security here [Jamaica] has launched a 10m-Jamaican-dollar (169,205 US-dollar) scholarship programme aimed at getting young people back to schools and away from a life of crime. The project is being administered through the Youth Initiative Against

Crime and Violence to provide educational support to youths at risk, including those on the streets, in juvenile institutions, in the inner city or [who have been] abandoned." [44h]

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5.179 An article in the Jamaica Observer dated 10 July 2003 noted that the Government announced plans for a School Fee Assistance Programme, which will benefit 105,000 of Jamaica's poorest high school students. From September 2003 students will have their fees paid in part or whole by the Government. According to officials, of the students who will receive the fee support, about 38 percent of them - 40,000 - are covered by the Government's anti-poverty initiative. [36f]

5.180 As reported in a Jamaica Gleaner article dated 6 August 2004

"Education Minister Maxine Henry-Wilson has indicated that the Patterson administration was 'so far' on target to phase in free secondary education by 2005 -- a promise made by the ruling People's National Party (PNP) during the 2002 general elections campaign. She also told the Gleaner that starting this September [2004], Government will also pay the examination cost for students to sit one GCE subject - Human and Social Biology - in addition to the four CXC subjects already agreed on." [34aa]

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6. Human Rights

6A. Human Rights Issues

General

6.1 The Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, published 26 September 2003 referring to the mission of 17-27 February 2003 stated that

"With regard to its legal observations under international human rights law, Jamaica is a State party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict." [12](p8)

6.2 The Special Rapporteur continued

"Jamaica has also signed but not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In 1998 Jamaica withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights. In addition, within the context of the Organization of American States, Jamaica is a State party to the American Convention on Human Rights." [12](p8)

6.3 The US State Department Report 2004 (USSD), published on 28 February 2005 noted that

"The Government [of Jamaica] generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed unlawful killings. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem." [8](p1)

6.4 Amnesty International (AI) in their annual report on Jamaica 'Covering events from January - December 2003' published May 2004 noted that

"Reports of police brutality and excessive use of force continued. At least 113 people were killed by the police, many in circumstances suggesting that they were extrajudicially executed. Detainees continued to be held for extremely long periods without being brought to trial. Conditions of detention frequently amounted to cruel, inhuman and degrading treatment. At least three people were sentenced to death; there were no executions." [9](p1)

6.5 The Jamaica Observer dated 24 February 2005 reported that

"A United Nations High Commission for Human Rights representative has commended Jamaica's international human rights record while challenging the country to ensure that the safeguards translate into real protection. Maarit Kohonen observed Tuesday [22 February 2005] that Jamaica had signed on to a number of key international human rights instruments. 'This means that Jamaica has undertaken a significant responsibility to protect and promote a wide range of human rights, civil, political, economic, social and cultural for all in Jamaica,' she told a human rights conference in Mandeville." [36ax]

6.6 The same article in the Jamaica Observer dated 24 February 2005 noted that "The conventions she [Maarit Kohonen] referred to included the:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and
- Convention on the Rights of the Child (CRC) and its First Optional Protocol on children and armed conflict.

The question we need to ask however, is, how are these international instruments implemented at national level." [36ax]

6.7 According to the USSD 2004 "There were no reports of political prisoners in 2003." [8](p4)

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Torture and ill-treatment of suspects in custody

6.8 Reporting on torture and other cruel, inhuman, or degrading treatment or punishment the USSD 2004 noted that "The law prohibits such practices; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improved procedures. There were also credible reports that police abused detainees in custody." [8](p3)

6.9 An AI issued report AMR 38/009/2004, UA 174/04 'Police death threats and brutality/incommunicado detention' published 17 May 2004, indicated that two men were being detained without charge in Spanish Town Police Station and at risk of ill-treatment and torture. Amnesty International expressed concern for their safety. Police had detained them after killing another resident of the Morgan's Lane district in an alleged extrajudicial execution, and have threatened to kill people living in Morgan's Lane. One of the detainees reportedly had been severely beaten in police custody. [9b]

Arbitrary arrests

6.10 The USSD 2004 noted that

"The Jamaica Constabulary Force Act permits the arrest of persons 'reasonably suspected' of having committed a crime. There were some reports arbitrary arrest during the year [2004], and the authorities continued to detain suspects, particularly those from poor neighbourhoods, without bringing them before a judge within the prescribed period." (See paragraphs 5.48 – 5.51) [8](p3)

Disappearances

6.11 The USSD 2004 noted that "There were no reports of politically motivated disappearances." [8](p2)

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Crime and law and order

6.12 An article in the Jamaica Gleaner dated 20 May 2004 stated that the National Security Minister Dr. Peter Phillips painted a dismal picture of the island's crime rate, declaring that major crime was rising and that the country's crime rate could eclipse last year's [2003] if the trend continues unabated. The Minister said there have been increases in all seven categories of major crimes compared with the same period in 2003. The article stated that

"There were 975 murders last year, and 563 up to May 16 this year [2004]. Figures cited yesterday [19 May 2004] by the National Security Minister as he made his contribution to the Sectoral Debate in the House of Representatives, showed that between January 1 and May 16 this year [2004], the Kingston Metropolitan Region (KMR), which comprises Kingston and St. Andrew and parts of St. Catherine, was responsible for 401 of the murders." [34aw]

6.13 However, a 16 June 2004 article in the Jamaica Gleaner noted that from 79 murders for the last six months of 2002, and 40 for the same period in 2003, the communities of Tel Aviv and Southside in central Kingston have

become the envy of other inner city communities. Both communities have recorded no more than two murders since January 2004, thanks to the social intervention by some NGOs, a desire by citizens to reclaim their communities, and the police implementing more user-friendly law enforcement activities. [34ax]

6.14 Another Jamaica Gleaner article dated 12 July 2004 reported that since the start of 2004, there have been 76 murders in St James. [34ay] An article in the Jamaica Observer dated 5 August 2004 stated that South St Andrew police division has had the most murders since the start of 2004. Up to 5 August 2004, 147 people had been murdered. [36ad]

6.15 As reflected in an article in the Jamaica Gleaner dated 30 June 2004,

"Senior Superintendent Paul Ferguson, commanding officer for the St. James Police Division, says that crime management in the parish is hindered by a number of factors, including the expansion of squatter communities and the illicit drug trade. With 67 murders recorded to date [30 June 2004], St. James' crime profile is a complex web of drug-related crime, gang warfare, reprisals and community disputes. Speaking to The Gleaner in an interview yesterday [29 June 2004], SSP Ferguson explained that managing crime in St. James is a difficult task, which is further hindered by the socio-economic hardships being faced in troubled communities." [34bj]

6.16 An article in the Jamaica Gleaner dated 22 July 2004 reported that more than 300 illegal guns and 16,000 assorted rounds of ammunition, with a street value of more than \$5 million, have been taken from the hands of criminals during police operations throughout the island since January [2004]. Lucius Thomas [at the time acting Commissioner] attributed the success to the effectiveness of the police at the street level. However, he said that he was not satisfied with the number of arms and ammunition seized to date. "There are too many guns on the street and we are still having difficulty controlling the murders," he said. [34bh]

6.17 An article in the Jamaica Gleaner newspaper dated 20 May 2004, reported that the Minister of National Security Dr Peter Phillips had condemned unnamed parliamentary colleagues for links to the illegal drug trade and called on politicians to sever ties with so-called dons involved in violence and drugs. The report states that "In his contribution to the Sectoral Debate in the House of Representatives, the National Security Minister raised concerns that connections to drug money were corrupting individuals in law enforcement and within the political system." [34ad]

6.18 The same report stated that

"Yesterday [19 May 2004] Dr Phillips declared that money from the drug trade had been used to corrupt members of the Police Force, but maintained that most policemen and women were honest, hardworking and law-abiding persons. In addition, he hinted that other institutions were in danger as 'we have seen threats being directed at members of the Judiciary and other public officials.'" [34ad]

6.19 The Jamaica Gleaner reported on 27 January 2004 that

"A 52-year-old police corporal attached to the May Pen traffic department in Clarendon was shot and killed during a drive by shooting in the parish on 26 January 2004. Reports suggest that he was in the process of issuing a traffic ticket to a motorist near the intersection of Manchester Avenue and Glenmore Road in May Pen when, a white station wagon Toyota motor car with armed men aboard drove up and both policemen and the motorist were shot." [34v]

6.20 The Jamaica Gleaner dated 23 February 2004 reported that a Senior Superintendent had been murdered in Kingston on 20 February 2004. The Superintendent, "Mr McDonald was part of Mr Seaga's security detail during the 1980s and at one time worked closely with the Denham Town community, western Kingston, a part of Mr. Seaga's constituency." [34u] The Jamaica Observer reported on 9 March 2004 that "The police have detained a suspect in the February 20 murder of Senior Superintendent Lloyd McDonald in what was being interpreted as a substantial breakthrough in the gunslaying of the most senior Jamaican police officer in recent memory." Mr McDonald was the third policeman killed so far this year [up to 9 March 2004]. [36p]

6.21 In February 2004, as reported in the Jamaica Gleaner dated 18 February 2004 "Special Branch detectives are now probing reports of a plot to kill [then] Police Commissioner Francis Forbes. There are also reports that since the news of the plot surfaced about three weeks ago [the end of January 2004], the 52-year-old commissioner had effected some changes to his personal security." The Gleaner learnt that the sources of the threat are both internal and external. It is alleged that at least one senior police officer and an influential civilian have been implicated in the alleged plot. This is the second time in four years that the commissioner has had to 'beef up' his personal security. [34m]

6.22 Amnesty International (AI) noted in their annual report 2004 'Covering events from January to December 2003', that "Jamaican society continued to suffer from an extremely high level of violence; at least 975 people were reported murdered, including 13 police officers." [91](p1)

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Extrajudicial Killing

6.23 The USSD 2004 noted that

"In October [2003], the U.N. Commission on Human Rights released the report dated 26 September 2003 of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, which stated that the country had an unacceptably high number of questionable police shootings and should hold more policemen accountable for their actions. The Ministry of Foreign Affairs and Foreign Trade called the report 'fairly balanced', and noted that measures to improve the situation had been taken." [8](p2)

6.24 The Report of the Special Rapporteur, Asma Jahangir, dated 26 September 2003, stated that

"During the visit Ms Jahangir met with government ministers and officials, including representatives of the police, the security forces and the judiciary, She also met with a number of civil society organizations and community representatives. She had the opportunity to visit a number of neighbourhoods in central Kingston - the so-called 'inner cities' - and the St Catherine prison in Spanish Town. She also visited Montego Bay. On a number of occasions she met with individual witnesses and family members of persons who had allegedly been extrajudicially executed." [12](p2)

6.25 The Special Rapporteur report also stated that

"Following her mission, it was the Special Rapporteur's distinct impression that extrajudicial executions by the police, and possibly in a very few cases also Jamaican Defence Forces, had in fact taken place. She stresses that she is not mandated to pronounce any clear-cut judgement as to the guilt or innocence of any individual; this eventually has to be determined through a due process of law. She also notes that the criminal justice system in Jamaica currently does not have the appropriate capacity to deal with these cases." [12](p2)

6.26 The Special Rapporteur Report further noted that

"The Special Rapporteur recognizes the challenge faced by the security forces in controlling crime and violence, but underlines that a high crime rate is not an excuse for the excessive use of force on the part of State authorities. She appreciates that senior policy makers and security officials in Jamaica have recognised the need for better accountability on the part of the security forces." [12](p2)

6.27 The report continued

"The Special Rapporteur fully comprehends the challenge faced by the security forces in controlling crime and violence. They face a difficult task which is compounded by the fact that they lack tactical training in the use of non-lethal force and thereby end up using disproportionately high levels of force. Such methods are habit-forming and expose both the security forces and the public to undue risks. There was a tendency across the board to cover up suspected cases of extrajudicial killings." [12](p22)

6.28 An AI Press Release dated 23 September 2004 reported that

"The killing of two people during the current state of emergency bear all the hallmarks of extrajudicial executions, said Piers Bannister, Amnesty International's Jamaican researcher today. The organization is calling upon the authorities to fully and impartially investigate these deaths....On 19 September 2004, members of the Jamaican Defence Force killed community activist Sandra Sewell, and Gayon Alcott, a 20-year-old footballer. The killings took place in August Town, St. Andrew. Members of the community who claimed to have witnessed the killings alleged that soldiers approached Alcott because he was smoking marijuana and shot him in the stomach. Soldiers then shot him again

as he attempted to flee. Sandra Sewell was allegedly shot as she sought protection from the gunfire behind a pole.... The Jamaican Government declared a month long state of emergency on 10 September in reaction to the approaching hurricane 'Ivan'." [9k]

6.29 As reported in the Jamaica Observer dated 8 October 2004,

"Dr Derrick Pounder, the UK-based forensic expert who this week observed the post-mortem on Sandra Sewell and Gion 'Neil' Halcott who were fatally shot by members of the Jamaica Defence Force (JDF) on September 19 [2004], said yesterday [7 October 2004] that the physical evidence at the scene and at the post-mortem supports witnesses' accounts that the two were murdered.... The official police report, however, said that police and soldiers were patrolling the Jungle area in August Town when they came upon a group of persons, including one man with a ganga cigar. The man was accosted by a member of the patrol. Shots were fired and later it was discovered that Sewell and Halcott had received gunshot wounds, according to the Constabulary Communication Network." [36at]

6.30 The USSD 2004 noted that "There were no reported politically motivated killings by the Government or its agents; however, security forces committed some unlawful or unwarranted killings during the year [2004]." [8](p1)

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Use of excessive force by the police

6.31 The USSD 2004 noted that "The police frequently employed lethal force in apprehending criminal suspects. Police encounters with criminals resulted in 119 deaths (including 11 police officers) compared with 127 deaths (including 13 police officers) in 2003. While allegations of 'police murder' remained frequent, the validity of some of the allegations was suspect." [8](p1-2)

6.32 A BBC report dated 26 October 2003 noted that the Jamaican Government had ordered an inquiry into the police killings of two elderly men, which sparked mass riots. Thousands of people took to the streets, burning cars and blocking roads near Montego Bay airport in protest at the deaths of a taxi driver and newspaper seller. Police said the two men were caught in crossfire with an armed gang during a dawn raid on Saturday [22 February 2003]. The protesters said the two men had been killed by police in cold blood. [21c]

6.33 The Jamaica Gleaner dated 17 February 2004 reported that

"A Police officer shot and killed a man who threatened them with a machete in northwestern Jamaica, authorities said Monday [16 February 2004]. Two officers were on patrol Sunday in the upscale Coral Gardens section of resort town Montego Bay when they saw a man shouting and waving a machete," police spokeswoman Camille Tracy said. 'He was told to drop the machete by the policemen, but he refused,' Tracy said. The 44-year-old man started swinging the machete in their direction and the two officers began to run backward and one of them fell, she said. The man, identified only as 'Tru Tru',

started to attack the officer on the ground with the machete and the policeman shot him in the chest, police said." [34n]

6.34 The same article in the Jamaica Gleaner dated 17 February 2004 noted that Jamaica has one of the highest per capita levels of police shootings in the world, according to Amnesty International. Police killed 113 people last year [2003], down from 133 in 2002, authorities said. [34n]

6.35 Riots broke out in the west Kingston neighborhood of Denham Town on 13 February 2004. The Associated Press dated 13 February 2004 reported that

"The disturbance began around midday after a police officer shot a 14-year-old uniformed student in the head as he was eating his lunch with classmates near his school, residents told The Associated Press. The boy was reportedly listed in serious condition. 'The policeman just pointed his gun over the fence and started shooting,' said witness Sharon Maragh, 43. 'He said he didn't like people from west Kingston.' As word of the incident spread, about 500 residents and students descended upon the Denham Town Police Station, breaking windows with stones and setting a police car and military jeep on fire. Police said some protesters fired shots at the building, wounding one soldier. ... Police later regained control after former Prime Minister and opposition leader Edward Seaga arrived and pleaded with residents for calm. Seaga, the Member of Parliament for the area, promised a swift investigation into the shooting, RJR radio reported." [54d]

6.36 A protest broke out in Olympic Gardens on 10 August 2004 over the alleged shooting by police of a 19 year-old youth as reported in an article in the Jamaica Observer dated 11 August 2004. The police said that the youth was killed in a shoot-out, but residents claimed he was killed in cold-blood. [36aa]

6.37 The USSD 2004 reported that

"The JCF [Jamaica Constabulary Force] continued an initiative of 'community policing' to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The Police Federation continued training programs for policemen on citizens' rights. The Government, the Independent Jamaica Council for Human Rights developed human rights materials that were used in a number of primary schools across the country. The group was developing additional educational materials at year's [2004] end." [8](p3-4)

6.38 An article in the Caribbean Media Corporation (CMC) news dated 10 December 2003 reported that

"The Police High Command and its affiliate groups signed a Memorandum of Understanding (MOU), launching a number of policies to deal with anti-corruption, police use of force and human rights. A government statement said that the new initiative is aimed at reforming the Jamaica Constabulary Force (JCF) and 'fostering a more harmonious relationship between members of the society and the

police'. It said 'that the MOU is the first ever to be signed between the Police High Command and its affiliates.'" [44i]

6.39 An undated Jamaicans for Justice report (accessed 04/08/04), 'Jamaica's Human Rights Situation', stated that

"Human Rights defenders in Jamaica face a number of problems and dangers, both organizationally and individually. Organizations have been subject to telephone threats (including death, bodily harm) from anonymous callers and alleged political party supporters. They also face verbal police harassment, inordinate difficulty getting charitable status/tax exemption which other NGOs are able to get, and on occasion slander from government officials including the Commissioner of Police force and the Chairman of the Police Federation." [51a](p9)

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Prosecution of state officials accused of ill-treatment

6.40 The USSD Report 2004 noted that

"The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI [Bureau of Special Investigations], which employed 26 investigators, specifically addresses police shootings. The BSI completed investigations of 32 of 383 shooting incidents during the year and sent them to the DPP. The DPP ruled on 13 cases and sent 5 to criminal courts. One officer was found criminally liable. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had seven investigators." [8](p3)

6.41 The previously-mentioned Special Rapporteur Report dated 26 September 2003 noted that

"In the event of fatal shooting or other type of killing by a staff member of the JCF, an investigation must be undertaken by the BSI....The total staff of the BSI comprised 43, of whom 25 were investigators. Once an investigation by the BSI is completed, the file is transferred to the DPP, who will either decide to go ahead with criminal charges or refer the case to the Coroner's Court, which will conduct a coroner's inquiry. This type of inquiry which is conducted by a jury and chaired by a judge is essentially intended to clarify whether criminal charges should be presented. The verdict of the inquiry, along with the case-file is referred back to the DPP, who must once again decide whether to continue with a prosecution or close the case." [12](p13)

6.42 The Jamaica Gleaner dated 25 February 2005 noted that

"A Call has been made by the Judicial Review Court for the government to set up and [sic] independent body to investigate cases against policemen. The court made the call when it handed down its ruling yesterday [24 February 2005] in the Janice Allen case. Miss

Justice Gloria Smith in delivering the majority decision in the application sought for leave to go to the Judicial Review Court to quash the jury's verdict emphasised the need for such a body. 'The circumstances surrounding this case are sad, tragic, reprehensible and repugnant', the judge said. She said further that the circumstances emphasised the need for an independent body to investigate cases against members of the Jamaica Constabulary Force (JCF). The judge explained that members of the JCF should not investigate their own officers because that could seem bias, unfair and not impartial. The Bureau of Special Investigations has the responsibility to investigate shootings and other misconduct by members of the JCF. Yesterday [24 February 2005] was not the first time that a call was made for an independent body to investigate cases against policemen." [34e]

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Police impunity

6.43 A Jamaicans for Justice report accessed 4 August 2004 said that "Jamaican laws and constitution are impressive in the protection they provide for the rights of the citizens but breeches by agents of the state, of the law and the constitution go unpunished and result in a culture of impunity". [51a](p1)

6.44 According to an undated Report on Jamaica's Investigation and Prosecution of Deaths at the Hands of Agents of the State, 'Pattern of Impunity' which was presented to the Inter American Commission on Human Right by Jamaicans for Justice, accessed 1 February 2005

"Jamaica has one of the highest per capita rates of lethal police shootings in the world on average 140 people per year have been shot and killed by the police in the last decade, in a country whose population is only 2.6 million. Compounding this problem is the fact that almost all investigations and prosecutions of fatal police shootings are perfunctory, inadequate and unsatisfactory and do not meet international standards....The Government of Jamaica has failed to properly investigate police shootings on several systemic levels, including: A failure to preserve the crime scene and collect forensic evidence; A failure to protect witnesses of police shootings against intimidation and harassment, (at times the Police themselves are the perpetrators of the harassment and intimidation); and a failure to grant legislative support and resources to an independent investigative body to oversee the investigation of police shootings. Furthermore, there has been a failure on the part of the Government of Jamaica to provide: A speedy and efficient remedy to victims' families in terms of both the investigation (including adequate autopsy and post-mortem procedures) and the judicial proceedings. This failure includes a failure to prosecute police officials for the killing of civilians, despite overwhelming evidence." [51b](p4)

6.45 The same Jamaicans for Justice report stated that

"In Jamaica there is a clear pattern of police impunity for killings of civilians due to a combination of factors including: systematically poor investigative procedures; weaknesses of oversight bodies and mechanisms; failure to protect witnesses; delays and weaknesses in

the processes of the courts; weaknesses and lack of will in the office of the Director of Public Prosecutions; and lack of political will to correct the problem. By improperly investigating and prosecuting fatal police shootings Jamaican authorities are not only undermining the trust relationship that exists between a government and its people but also the internationally guaranteed fundamental right to life." [51b](p3)

6.46 In their news release, 'Jamaica: An end to police impunity in sight?', dated 25 June 2003, AI said

"Amnesty International today welcomed the recent actions and undertaking by the Jamaican government to strengthen the investigation of police officers involved in fatal shootings. The recent actions to help bring about police accountability are positive, welcome and give credibility to the government's statements that they seek to hold police officers to account in Jamaica. However, in the final analysis, there are only two criteria by which success can be judged: a significant drop in the number of those killed by police officers and the trial and conviction of officers for unlawful killings, Amnesty International said today." [9c]

6.47 The same AI news release (25 June 2003) stated that

"In the past three months, the Jamaican Government has taken firm steps and made specific commitments to end unlawful killings and police impunity. The authorities have:

- undertaken to improve the autopsies on those killed by the police;
- undertaken to lessen the backlog for Coroner's Court enquiries into police killings;
- made explicit public statements that unlawful killings by police officers will not be tolerated;
- publicly requested that the Director of Public Prosecutions make a decision on whether to prosecute members of the Crime Management Unit implicated in the unlawful killing of the Braeton Seven;
- sought and received expert assistance from the governments of the UK, USA and Canada with the investigation of the killings of four persons in Crawle by officers from the Crime Management Unit on 7 May 2003; and
- Disbanded the Crime Management Unit."

[9c]

6.48 AI said that the disbanding of the Crime Management Unit - which had been implicated in numerous abuses of human rights - is a particularly welcome development. However, Amnesty International said that mere disbandment of the unit does not go far enough. [9c]

6.49 The Jamaica Gleaner reported in an article dated 4 May 2004 that the Prime Minister P J Patterson announced on 27 April that the Government had agreed to the establishment of a independent civilian authority to probe crimes and misconduct allegedly committed by the police. The Prime Minister had outlined in Parliament that a National (Independent) Investigative Authority

(NIIA), is to be set up to tackle 'crimes of an increasingly complex nature', separate from the JCF. [34aq]

6.50 In May 2004 four policemen were arrested and charged with murder in connection with the shooting of two persons in St Catherine last year [2003] as reported in the Gleaner dated 19 May 2004. The report said that three of the policemen, all from the Special Anti-Crime Task Force (SACTF) were charged with the murder of a fifteen year old. The fourth policemen was charged with the controversial killing of a twenty-three year old taxi driver in October 2003. [34ap]

6.51 An article in the Jamaica Observer dated 2 June 2004 mentioned that

"A complaint lodged by member of parliament for North East St Andrew, Delroy Chuck, to the police commissioner Francis Forces [sic], has led to a police constable being charged for unlawful wounding arising out of a shooting incident in Grants Pen, Kingston, last election day. Detective constable Marvin Brooks of the Constant Spring police was brought before the Corporate Area Resident magistrate's Court on Monday [31 May 2004] and pleaded not guilty to the charge. Brooks will be suspended from duty pending the outcome of the case. Brooks and six other cops were reported to the Bureau of Special Investigations [BSI] after Courtney Harrison and Dwayne Maitland were shot at Oddman Lane in Grants Pen on October 16, 2002." [36w]

6.52 An article in the Jamaica Gleaner dated 24 June 2004 reported that "Human Rights activists have welcomed a Scotland Yard recommendation that all victims of police shootings be X-rayed, arguing that bullets left in victims' bodies can identify a trigger puller and provide more essential forensic information." Yvonne McCalla Sobers, convenor of Families Against State Torture (FAST) said that her organisation has a strong interest in the new recommendation, as since January [2004] there have been a number of cases where persons have been buried with bullets lodged in them. [34ao]

6.53 The Jamaica Gleaner dated 3 November 2004 reported that

"The Government has agreed to pay \$2.7 million to Janine Cameron, the mother of Michael Gayle, the mentally-ill man who died as a result of injuries he received when he was beaten by soldiers and police at a curfew barricade in Olympic Gardens on August 21, 1999.... Cameron filed a suit in the Supreme Court seeking damages for assault, false imprisonment and breach of her son's constitutional rights. Last year [2003] Michael Hylton, Q.C., recommended that there should be an out of court settlement. A Coroner's jury had ruled in December 1999 that all the military and police personnel at the curfew barricade should be charged. Director of Public Prosecutions, Kent Pantry, Q.C. reviewed the depositions and ruled in March 2000 that no one should be charged." [34ei]

6.54 In a press Release by AI dated 3 November 2004, AI noted that

"As October ends, Amnesty International is gravely concerned that it is now more than five years since any Jamaican police officer has been

convicted of an unlawful killing committed while on duty, a shameful blot on the country's human rights record. 'At least 650 people have been killed by police officers in Jamaica since 1999. Many of these have been blatantly unlawful killings, yet not one officer has been convicted since then.' Said Piers Bannister, Amnesty International's Jamaica researcher today [3 November 2004]. Amnesty International has received repeated assurances from the Jamaica Government that all killings by the security forces are fully investigated and that impunity for police officers does not exist. However, the evidence suggests otherwise....Amnesty International acknowledges that in recent times there appears to be more of a willingness by the authorities to charge officers and welcomes this progress. However, it is only one small step in a long journey to protecting human rights." [91]

6.55 The Jamaica Gleaner dated 15 January 2005 reported that

"A taxi driver who assisted a policeman in a robbery which resulted in a customer being shot and killed in a shop at James Hill, Clarendon was yesterday [14 January 2005] sentenced to life imprisonment for non-capital murder. A Home Circuit Court jury on Thursday [13 January 2005] convicted Rudolph Clarke, also called 'Taboo', taxi driver, of Central Village, St. Catherine of the murder of Lascelles Rosedom, farmer, of James Hill on July 21, 2000. Mr. Justice Donald McIntosh put off sentencing until yesterday when Clarke was sentenced to life imprisonment with a recommendation that he should serve 20 years before he was eligible for parole. Constable Carl Graham, 33, who was attached to the Central Village Police Station pleaded guilty in November to Rosedom's murder. He was sentenced to life imprisonment with a recommendation that he should serve 20 years before parole." [34e]

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Crime Management Unit

6.56 A report on 2 June 2003 by the CMC stated that

"[Then] Police Commissioner Francis Forbes on Monday [2 June][2003] confirmed media reports that the controversial Crime Management Unit (CMU) of the Jamaica Constabulary Force has been disbanded and its leader, Senior Superintendent Renato Adams, pulled from operational duties. Speaking at a press conference in Kingston on Monday [2 June] afternoon, Francis Forbes said 'Adams would no longer lead a police team on operations in the various communities.' He said that 'effective 9 June [2003], Adams would assume a new position as Coordinator of the National Anti-Crime Initiative - a post that will see him spending time collecting data.' Under Adam's leadership, the CMU had been dogged by controversy, including allegations of extrajudicial killings." [44d]

6.57 Amnesty International reported on 15 May 2003, that

"The community of Crawle in Clarendon, Jamaica have complained of police harassment and threats following what appeared to be the extrajudicial execution of the four people on 7 May [2003]. Police

officers had reportedly constantly visited the community in unmarked vehicles in an effort to intimidate them and several eyewitnesses to the killings have stated that they would only testify, if their safety could be guaranteed." [9d]

6.58 A report in the BBC News - Caribbean Rim: Press review 3-4 June 03 - Kingston Jamaica Observer, stated that

"The opposition considers the action [the disbanding of the CMU] a victory for justice. The JLP had reportedly objected to the establishment of the CMU from the outset and have been among those calling for its disbandment for well over a year when reports of controversial killings began to mount. It is mentioned in a related report in the Kingston Jamaica Observer on 4 June [2003] that all killings of police officers would now be investigated by the new Organised Crime Investigating Division (OCID) an upgraded version of the Organised Crime Investigating Unit." [33a] (See paragraph 5.76 – 5.78 for more information on OCID)

6.59 On 5 June 2003, the CMC reported that "Five members of the CMU, including Adams, were subsequently taken off frontline duty as police started their probe into the shooting." [44e]

6.60 As reported in the same CMC article

"Detectives from Scotland Yard and the Royal Canadian Mounted Police, who are investigating the killings were expected to hand a preliminary report to the Police Commissioner within 30 days. London's Metropolitan Police Commissioner Sir John Stevens told journalists at a press conference at the British High Commission in Kingston on Wednesday [4 June 2003] that 'Their initial role of the outside support is to scope the task in Crawle and this should take 30 days or so to complete.' He said that 'Our objective is simple, to search for the truth and support the JCF's (Jamaica Constabulary Force), investigation.'" [44e]

6.61 The AI news release dated 25 June 2003 also reported that

"While noting that there has not been a single trial of a police officer on a charge of unlawful killings in recent times, Amnesty International nevertheless hopes it has seen the turning of a corner in the fight to see justice for the victims of unlawful killings in Jamaica. Amnesty International is also concerned at recent reports that the members of the Crime Management Unit involved in the killings at Crawle have yet to give statements to investigating officers and wish to return to the scene of the killings before doing so." [9c]

6.62 The Jamaica Observer dated 29 January 2004 reported that some residents of Spanish Town called for the re-instatement of "tough cop", Senior Superintendent Renato Adams, to active street duty. An owner of a business in the heart of the town told the Observer that "When Adams [is] in Spanish Town, extortion is at a minimum. The people trust him and are not afraid to

give him information because they know he will not let them down, unlike other police officers." [36g]

6.63 An article in the Jamaica Observer dated 4 June 2004 noted that Renato Adams and five former members of the CMU appeared in court on 3 June 2004 and had their \$2-million bail extended until 29 July 2004. The article also states that two of the officers who were on the operation and have since turned crown witnesses are currently being kept in a foreign country awaiting to return to give evidence at the trial. [36z]

6.64 The Jamaica Gleaner reported on 30 July 2004 that

"One of the Crown witnesses whose evidence was vital in the murder case of Senior Superintendent Renato Adams and the other five policemen charged with the murder of four civilians at Kraal [Crawle] Clarendon on May 7 last year [2003], was shot and killed earlier this month [July 2004]. Crown Counsel Gail Walters made the disclosure in court yesterday [29 July 2004] when the policemen appeared in the Home Circuit Court where a September 23 [2004] mention date was set." [34ar]

6.65 The Jamaica Gleaner dated 24 September 2004 reported that Renato Adams and the five other policemen charged with the murder of the four civilians in Kraal are to return to the Home Circuit on 9 December 2004. [34dn]

6.66 A CMC article dated 4 November 2003 reported that "Two years after seven gunmen were fatally shot by the police in the community of Braeton in the central parish of St Catherine, the Director of Public Prosecutions [DPP], Kent Pantry, ruled that six members of the Jamaican Constabulary Force be charged with the killings." The DPP's ruling followed his review of evidence presented during the lengthy coroner's inquest into the fatal police shooting of seven youths on 14 March 2001. [44f]

6.67 The USSD 2004 stated that "Following independent investigations by AI, the DPP overturned the decision of a coroner's jury and charged six police officers in the 2001 killing of seven youths in Braeton, St. Catherine. The trial was scheduled to begin in January 2005." [8](p2)

6.68 In May 2004, the defence lawyers for the six policemen charged with the murder of the seven youths applied to Chief Justice Lesley Wolfe for a change of venue for the trial from the Home Circuit Court in Kingston to either Manchester, St Elizabeth or Portland, as reported in the Jamaica Observer dated 13 May 2004. The article then said that the lawyers had argued that the move was vital for a fair trial because the case had attracted unprecedented levels of media coverage and public attention. However, the Chief Justice contended that the pre-judicial publicity mentioned was not confined to Kingston and St Andrew and St Catherine. The publicity, he said, was widespread throughout Jamaica and there was every likelihood that the accused policemen would get a fair trial in the Home Circuit. [36x]

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The Braeton Seven Case

6.69 As reported in the Jamaica Observer dated 18 January 2005 the Braeton trial started on 18 January 2005. The article noted that it took five hours for the prosecution and the defence to agree on the 12 jurors who will adjudicate in the Braeton murder case. The article stated that the lead prosecution attorney, Paula Llewellyn, told the court that "The Crown is alleging that at the material time when the men met their deaths, the police officers who killed them were not acting in self-defence because the men in the pathway would have been disarmed of the guns they had". The six policemen who were members of the now disbanded CMU, are on trial for the deaths of seven persons in Braeton in March 2001. [36c]

6.70 The same Jamaica Observer article further stated that "The Braeton killings sparked outrage in Jamaica and local human rights group, with the support of Amnesty International, campaigned for charges to be brought against the policemen. A coroners jury, however, in October 2003 returned a split verdict on whether anyone was criminally responsible for the killings, but the Director of Public Prosecution later ordered the arrest and charge of the seven for murder." [36c]

6.71 The Jamaica Gleaner reported on 22 January 2005 that

"The Braeton murder trial continued yesterday [Friday 21 January] with consultant government forensic patho-logist [sic] Dr Ere Seshaiyah testifying that six of the seven young men who were shot and killed in a house in Braeton, St Catherine on March 14, 2001 died of gunshot wounds to the head. He said the six men died immediately after they were shot in the head, adding that they had gunshot injuries to other parts of their bodies.... The Crown, represented by Senior Deputy Director of Public Prosecutions, Paula Llewellyn; Deputy Director of Public Prosecutions, David Fraser, and Tara Reid, Crown counsel, are alleging that the policemen who are on trial for the murder, were not acting in lawful self-defence when they shot them." [34e]

6.72 An article in the Jamaica Observer dated 1 February 2005 said that the absence of three prosecution witnesses in the Braeton trial caused the sitting on 31 January 2004 to end prematurely in the Home Circuit Court. The article states that

"Trial judge Justice Donald McIntosh issued bench warrants of arrest for the two civilian witnesses who had failed to appear, and directed Assistant Commissioner of Police Keith 'Trinity' Gardener to have the them arrested and brought to court today [1 February 2005]. The other witness is a policeman. 'I want the warrants to be executed today (yesterday) [31 January 2005] so assistant commissioner (Gardener) I want you to get the warrants and take them (witnesses) in custody immediately,' the judge instructed. He said if the witnesses were not found Gardener would be required to testify in court today why they were not arrested. Senior deputy director of public prosecutions Paula Llewellyn told the court that the two civilian witnesses - Galford Thompson and Delroy Laidley - were subpoenaed to testify yesterday [31 January 2005]. The subpoenas were served on December 17, 2004 and January 17, 2005." [36a]]

6.73 The Jamaica Gleaner reported on 2 February 2005 that

"Delroy Ledley, one of two civilian witnesses to have been issued a warrant of arrest on Monday [31 January 2005], testified that about 3:30 a.m. to 4 p.m. on March 14, 2001, he heard young men screaming for help in the pathway at 1088 Fifth Seal Way, Braeton, St. Catherine.... When Ledley appeared in court yesterday [1 February 2005], he was reluctant at first to testify. He began saying to the prosecutor when he was being examined that 'I told you Ms. Llewellyn, I am not interested,' but he was stopped by a question from Justice Donald McIntosh." [34b]

6.74 As noted in the Jamaica Gleaner dated 12 February 2005, the six policemen were freed of murder charges of the killing of seven men in a house in Braeton. Paula Llewellyn, senior deputy director of public prosecutions conceded that there was no evidence against Corporal Devon Bernard because there was nothing to suggest he had been at the scene of the crime. Mr Justice Donald McIntosh upheld the no-case submission in respect of the other five accused. The judge directed the 12-member jury to return a formal verdict of not guilty. Paula Llewellyn insisted that there was sufficient evidence to prove that they were aiders and abettors in the commission of the crime and should be called upon to answer to the charges. The Judge remarked that the crown witness Delroy Ledley who the Crown was relying on to prove its case did not identify any of the policemen. [34cv]

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Janice Allen

6.75 The Special Rapporteur Report also highlighted individual cases addressed by the Special Rapporteur during her visit. One such case is that of Janice Allen.

"On 29 May 2001 the Special Rapporteur transmitted an urgent appeal on behalf of the family of Janice Allen, a 13-year-old, who was reportedly shot dead by Jamaican police in April 2000. Furthermore, Janice Allen's relatives had allegedly been threatened with death by the police. Her brother was allegedly arrested and detained for over 12 hours without charge in incommunicado detention. Her sister was reportedly chased out of Hunts Bay Police Station and threatened when she attempted to locate her brother. During the visit, the Government informed the Special Rapporteur that a police constable had been charged in May 2001 for the murder of Janice Allen. The case was still pending before the court. This case had also been monitored by the Police Public Complaints Authority and the investigation was also supervised by the PPCA. In May 2001 the case was referred to the DPP, who ruled that the police officer in question should be charged. During the visit, the Special Rapporteur also spoke to the mother of Janice Allen, who had sent her young daughter away from Kingston because of continued threats to her and her family for pursuing the case against the accused policeman No action was taken against those intimidating her despite complaints to the police." [12](p13)

6.76 An AI publication - 'Fear for safety dated 16 May 2001 - Family of Janice Allen' stated that

"Police have threatened to kill the family of Janice Allen, a 13-year-old girl shot dead by Jamaican police last year [2000], after the Commissioner of Police announced last week that an officer would be charged in connection with the shooting following a ruling by the Director of Public Prosecutions.... Amnesty International believes that the threats and arrest were designed to intimidate Janice Allen's family and to stop them from pursuing their quest for justice. Amnesty International has documented many cases where families of victims of police shootings have been harassed and threatened, ill- treated and in some cases tortured." [91]

6.77 The Jamaica Observer noted in an article on 20 April 2004 that the

"Public Defender, Howard Hamilton, wants to conduct his own enquiry into whether the government has civil liability for the death of Janice Allen and should compensate the relatives of the 13 year-old girl, who was killed by a policeman's bullet in Trench Town four years ago.... At the same time, the Farquharson Institute of Public Affairs has also called for a public enquiry into the administration of criminal justice in Jamaica - including the Janice Allen case". [36y]

6.78 A Jamaicans For Justice article dated 28 June 2004 stated that

"Jamaicans For Justice and Amnesty International Jamaica view with deep discontent and anguish the formal verdict of not guilty returned by the Jury in the case of the death of Janice Allen, because of the failure of the State to present any evidence. Janice was 13 years old at the time of her death in April 2000. She was killed by a bullet from a policeman's gun. ... The Preliminary Inquiry which lasted a year and a half ended when the Resident Magistrate ruled that the case should be sent to the Supreme Court for trial. After innumerable delays, (and after being moved from Kingston to Port Antonio), the trial, which finally started today [28 June 2004], ended in less than one hour. The presiding judge instructed the jury to return a formal verdict of not guilty because the evidence linking the policeman involved to the gun which fired the fatal shot was missing from the case. The DPP's office told the court that the three crucial pieces linking the policeman to the gun which fired the fatal shot which caused the slow death of Janice, were not available. The firearms register in which the issuing of the gun is recorded was reportedly burnt in a fire at Denham Town Police Station." [47]

6.79 The Jamaica Gleaner dated 21 September 2004 reported that Chief Justice Lensley Wolfe will be making an ruling as to whether the Judicial Review Court has the power to review the acquittal of Police Constable Rohan Allen who was freed on manslaughter charges in the Janice Allen case. The article stated that

"Following the acquittal, Millicent Forbes, mother of the deceased, brought an application to the Supreme Court seeking leave to go to the

Judicial Review Court for an order to quash the acquittal of the policeman. [Millicent] Forbes is seeking a declaration that the trial was a nullity. After [Millicent] Forbes filed the application, the Attorney-General filed an application in the Supreme Court seeking to have the application struck out. Lawyers from the Attorney-General's Department argued yesterday [20 September 2004] in chambers that the Judicial Review Court did not have the power to overturn the outcome of cases in the Circuit Courts." [34dp]

6.80 The Jamaica Gleaner dated 5 October 2004 noted that Chief Justice Wolfe turned down the application for leave to go to the Judicial Review Court for an order to quash proceedings leading to the acquittal of Rohan Allen. He had been charged with manslaughter, however, the Jury was directed to return a formal verdict of not guilty after the Crown offered no evidence against him on the manslaughter charge based on reports that a vital witness for the Crown was abroad and could not be located. It later turned out that the report was false. [34dq] The Jamaica Gleaner dated 12 October 2004 noted that the Jamaica human rights body, Jamaicans for Justice [JFJ], was pursuing its legal battle to have the case heard by the Supreme Court. A renewed application was filed for the case to be heard directly by three judges in the Judicial Review Court in an effort to have the acquittal of Rohan Allen quashed. [34dr]

6.81 The Jamaica Gleaner reported on 6 January 2005 that

"It now appears that no one will be held responsible for last year's [2004] foul-up in the Janice Allen case which eventually led to the acquittal of a policeman who had been charged with shooting her to death. Nearly a year after [then] Police Commissioner Francis Forbes ordered an investigation into reports that the court had been misled, resulting in the controversial acquittal of Constable Rohan Allen, the results of the probe were only known yesterday [5 January 2005] seven months after the Director of Public Prosecutions (DPP) had ruled on the matter. In his ruling, a copy of which The Gleaner obtained, the DPP noted that an overseas address and telephone number had been available for the main witness, Inspector Linval Dunchie who, it had been earlier reported, was on sick-leave overseas and could not be reached. It was later discovered he was in Jamaica at the time of the trial." [34ds]

6.82 The Jamaica Gleaner article dated 6 January 2005 also noted that "Despite this, the DPP, after making several observations, ruled there was no evidence to lay any charge against anyone in connection with the case. 'Based on my observations and the statement of Herbert McKenzie (prosecutor), it is my opinion that there is no evidence to support criminal charges, and I so advise,' DPP Kent Pantry wrote in his ruling." [34ds]

6.83 The Jamaica Gleaner dated 7 January 2005 reported that

"The Police High Command said it might be forced to examine a ruling from the director of public prosecutions (DPP) which stated that there was no evidence to lay criminal charges against anyone who might have helped to cause the trial to collapse....Acting Assistant

Commissioner of Police (ACP) Granville Gause, in charge of the Bureau of Special Investigations (BSI), told The Gleaner yesterday [6 January 2005] that normally in similar cases, the DPP would advise that administrative action be taken. In this case, the ACP said this was not done, and that it was left to Police Commissioner Francis Forbes to recommend what action, if any, should be taken against Inspector Dunchie. But yesterday [6 January 2005], Deputy Commissioner of Police Jevane Bent, who is in charge of administration, said the Police High Command would first have to examine the DPP's ruling, then investigate to confirm whether Inspector Dunchie was in Jamaica at the time of the trial. She noted that if that were the case, then a recommendation for action would be made to the Police Service Commission (PSC).” [34dt]

6.84 As reflected in the Jamaica Gleaner dated 22 February 2005,

"Attorney-at-Law Richard Small yesterday [21 February 2005] outlined to the Judicial Review Court instances in which the mother of 13-year-old Janice Allen and her family were harassed, intimidated and even offered money to discontinue the case. He said the acts of intimidation were done by some members of the police force and persons who were acting on their behalf. He said the case featured a pattern of conspiracy to pervert the course of justice. Mr. Small referred to an affidavit in which he said in one instance a 'don' from the area had said that members of the police force wanted to pay for the burial and wanted to pay \$150,000 'and let the case die' but the money was not accepted. He said too that there was also an offer of \$125,000 to drop the case but this too was turned down...." [34dy]

6.85 The same article in the Jamaica Gleaner dated 22 February 2005 also noted that

"Mr. Small was making submissions before the Judicial Review Court which is hearing an application brought by Millicent Forbes, mother of Janice Allen who is seeking leave to go to another Judicial Review Court to have a jury's verdict set aside. In imploring the court to grant the application, Mr. Small said the court had the power to grant the application. He submitted that the verdict was obtained by fraud and misrepresentation; therefore the verdict was not genuine and so could not be given the protection and immunity which normally applied to the jury's verdicts. Mr. Small said in the matter before the court, persons used ulterior motives to obtain the verdict and therefore the perpetrators of the wrongdoing could not claim the protection of the jury's verdict. Justices Gloria Smith, Maha-dev Dukharan and Roy Jones are hearing the application." [34dy]

6.86 The Jamaica Gleaner dated 25 February 2005 reported that

"The Judicial Review Court yesterday [24 February 2005] threw out the application for leave to go to another court to apply for an order to quash the jury's verdict in the case of the policeman who was freed of manslaughter arising from the death of 13-year-old Janice Allen. 'I am of the view that the acquittal of Constable Rohan Allen is not open to

judicial review and cannot be quashed by judicial review,' Miss Justice Gloria Smith said as she delivered the majority decision. Millicent Forbes, mother of the deceased who had brought the application wept when she heard the ruling. She said the ruling had left her very sad.... Attorney-at-law Richard Small who represented Miss Forbes said he was going to appeal the ruling....On Monday, Mr. Small in renewing the application for leave to go to the Judicial Review Court had asked the court to use its inherent jurisdiction and grant leave. He said the verdict was obtained by fraud and misrepresentation." [34ek]

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Freedom of Speech and the Media

6.87 The USSD 2004 noted that

"The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel law limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation. In April [2004], the Director of Public Prosecutions threatened to monitor and prosecute talk show hosts who discussed criminal cases pending before the courts. The DPP expressed concern that widespread public discussion in the media of specific aspects of criminal cases made it difficult to select a jury that would ensure a fair hearing by an independent and impartial court, as required by the Constitution. However, no such prosecutions had been enforced at year's end [2004]." [8](p5)

6.88 The USSD 2004 noted that "At year's end [2004], the Gleaner Company continued to fight a lawsuit that arose from a story it published concerning a corrupt public official." [8](p5)

6.89 The USSD 2004 also noted that "The Government did not restrict access to the Internet." [8](p5)

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Freedom of Religion

6.90 The USSD Report 2003 stated that "The Constitution provides for freedom of religion, and the Government generally respects this right in practice." [8](p5)

6.91 The US State Department report on Religious Freedom, issued 15 September 2004 stated that

"The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There was no change in the status of respect for religious freedom during the period covered by this report, and government policy continued to contribute to the generally free practice of religion. The generally amicable relationship among religions in society contributed to religious freedom." [59](p1)

6.92 The US State Department report on Religious Freedom also stated that

"In 2003 the Government recognized Rastafarianism as a religion. Members of the Rastafarian community have complained that law enforcement officials unfairly target them; however, it is not clear whether the police actions reflect religious discrimination or are due to the group's illegal use of marijuana, which is an element of Rastafarian religious practice. In February 2003, the Parliamentary Joint Select Committee on marijuana recommended decriminalization of possession of small quantities for adult personal use in private. The committee's recommendations have not yet been considered by the full Parliament." [59](p2)

6.93 The same USSD Report on Religious Freedom noted that "There were no reported abuses targeted at specific religions by terrorist organizations during the period covered by this report." [59](p2)

6.94 The same USSD Report on Religious Freedom noted that "The generally amicable relationship among religions in society contributed to religious freedom." [59](p2)

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Freedom of Association and Assembly

6.95 The USSD 2004 noted that "The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice." [8](p5)

Employment Rights

6.96 The CIA World Factbook updated 27 January 2005 noted that according to an estimate carried out in 2003 the unemployment rate was 15.9 per cent. [4] (p6)

6.97 The USSD 2004 noted that

"The law provides for the right to form or join a trade union and unions functioned freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits, a practice that is considered legal as long as workers receive severance pay." [8](p9)

6.98 The USSD 2004 also noted that

"The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. During the year [2004] the minimum wage was changed to \$32 (J\$2,000) per week and \$1.20 (J\$80) per hour for private security guards. The minimum wage did not provide a decent standard of living for a worker and family. Most workers were paid more than the

legal minimum, except in the tourism industry. The law provides for a standard 40-hour workweek and mandates at least one rest day per week. Work in excess of 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely." [8](p10)

6.99 An article in the Jamaica Gleaner dated 6 October 2004 stated that

"Human Rights lobby group, Jamaicans for Justice (JFJ), has called on the Government to develop and enact a Whistleblower Protection Act to encourage more witnesses to corruption and other wrongdoings to come forward. Dr. Carolyn Gomes, executive director of JFJ, and Cheryl-Ann Dunstan, a JFJ director, said the law is needed to protect persons who would risk their jobs and lives to reveal wrong doing such as a top official's abuse of his position or corruption within an organisation. Locally, she said, whistleblowers were labelled 'informers' and faced a hard time. 'The Whistleblowers Act is giving people who have access to sensitive information the confidence to come forward. Although they may seem like traitors to the companies, this is for the greater good,' Ms. Dunstan said. The Act, Ms. Dunstan explained [sic], should have provisions seeking to ensure, among other things, that:

- There is no intimidation or the loss of a job for someone who provides a reporter or other authority with sensitive information that shows clear wrongdoing.
- Would allow the state to prosecute an employer who attempts to intimidate a potential witness.
- Would take steps to ensure that the identity of the potential witness would be protected from the public at least until the actual trial.
- Seeks to provide financial and other assistance to potential witnesses if they are suspended from their jobs to deal with a particular case." [34dg]

6.100 The same article in the Jamaica Gleaner dated 6 October 2004 noted that "Nancy Anderson, an attorney-at-law, and legal officer at the Independent Jamaica Council for Human Rights (IJCHR), welcomed the recommendation but said yesterday [5 October 2004] that her organisation and JFJ would need to discuss the issue more before deciding whether the IJCHR would lobby for the enactment, implementation and enforcement of the Act." [34dg]

6.101 The Jamaica Gleaner reported on 27 September 2004 that "Claiming poor and arrogant leadership by the University and Allied Workers Union, a new union formed by prison guards is attempting to wrest representational rights for correctional workers away from the UAWU. The new union was registered in June [2004] in accordance with the regulations under the Trade Union Act." Nearly 300 of the 818 warders have abandoned that union for JAFEDCO [Jamaica Federation of Correctional Officers] according to Leslie Campbell general secretary of JAFEDCO. [36aq]

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Child labour

6.102 The USSD 2004 mentioned that

"In March [2004], the House of Representatives and the Senate passed the Child Care and Protection Act, which replaced the Adoption of

Children Act and the Juvenile Act. The Act generally provided for more support for the family unit and the improved safety of children, including prohibitions against trafficking in minors. It also established mechanisms, including a central child abuse registry and an Office of Children's Advocate, to monitor and defend the well being of children.” [8](p7)

6.103 The USSD 2004 stated that

“The Child Care and Protection Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the CDA is charged with finding places of safety for children. However, according to CDA officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 peddled goods and services or begged on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution.” [8](p9)

6.104 The USSD 2004 also noted that

“In June [2004], the ILO, the International Program on the Elimination of Child Labor (IPEC), and the Ministry of Labor and Social Security hosted a workshop as part of the National Program for the Prevention and Elimination of Child Labor. The resulting draft plan of action defined a clear path for future action and identified lead agencies to seek the resources necessary to develop the plan.” [8](p9-10)

6.105 The USSD 2004 also noted that “The Constitution does not specifically prohibit forced or compulsory labor, including by children, but other than child prostitution, there were no reports that such practices occurred.” [8](p10)

6.106 A January 2004 Report by the International Labour Office mentioned that Jamaica is an International Programme on the elimination of child labour (IPEC) participating- country. [11](p21) The Report stated that

“A rapid assessment on [commercial sexual exploitation] CSEC in Jamaica showed that children in prostitution were far from a homogenous group. Nine different profiles involving girls and boys were identified. It was discovered that social conditions, taboos and prevalent biases often make some groups involved in commercial sex – e.g. young children and boys engaged in homosexual prostitution – less visible than others. Given the varying ages, work contexts and reasons for working attributed to these groups of girls and boys, it was clear that different sets of interventions were needed.” [11](p33)

6.107 The same report stated that the Status of Statistical Information and Monitoring Programme on Child Labour (SIMPOC) Report 2002 - 2003, on Jamaica is still to be finalized or yet to be published. [11](p113)

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People Trafficking

6.108 The USSD 2004 stated that

"The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. Trafficking in children was a problem; and there were reports that persons were trafficked primarily within the country. The Child Care and Protection Act passed during the year [2004] specifically prohibits sale or trafficking of minors and provides that violators receive the maximum penalty under the law. The law subjected convicted traffickers to a fine or imprisonment with hard labour for a term not exceeding 10 years, or both." [8](p7-8)

6.109 The USSD Trafficking in Persons Report – Jamaica section page 13 - issued 14 June 2004 said that

"The government has no formal policy for protecting child trafficking victims, but they are offered the same general assistance through social services to the needy and vulnerable that are provided to other children removed from abusive situations. There are no government-funded shelters specifically for trafficking victims, but the government's Child Development Agency oversees facilities for at-risk children. The government provides funding to NGOs that work to reintegrate child laborers who are victims of trafficking." [73](p13)

6.110 The Jamaica Gleaner reported on 24 June 2004 that "The United States could withhold non-humanitarian or non-trade-related assistance from Jamaica if the island's current tier two ranking for efforts against 'trafficking in persons' worsens." [34g]

6.111 The Jamaica Gleaner article further reported that a seminar organised by the International Organisation for Migration (IOM) in partnership with the Inter-American Commission of Women within the Organisation of American States and the Bureau of Women's Affairs slammed the US for its assessment of Jamaica's ranking. Tier two ranking is just one rank from the lowest tier. It indicates that the government has not fully complied with what the US describes as minimum standards against trafficking in persons defined internationally as 'the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat to the use of force or other forms of coercion, abduction, fraud or deception or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.' [34g]

6.112 The USSD 2004 noted that "Child prostitution and trafficking for the purposes of sexual exploitation were problems." [8](p7)

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Freedom of Movement

6.113 Reporting on freedom of movement within the country, foreign travel, emigration, and repatriation the USSD 2004 noted that "The Constitution provides for these rights, and the Government generally respected them in practice." [8](p5)

6.114 The Jamaica Observer reported in an article dated 23 August 2004 that Jamaica's immigration authorities will start testing their new computerised passport and immigration tracking system on 23 August 2004. Officials say it will enhance the country's borders. The new system will have computer screens and electronic data reading mechanisms, which will provide immigration officers with real time information on an individual's travel history. It is expected that the system would record and store visitors' arrival and departure information enabling immigration officers to better track the movement of criminals as well as visitors who may have overstayed their time in the island. Jamaica is keen to enhance its border controls to fight international drug trafficking. The island is a major transshipment point for cocaine bound for North America and Europe. [36ab]

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Treatment of foreigners seeking asylum in Jamaica

6.115 The USSD 2004 reported that

"The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers but did not grant refugee status or asylum." [8](p5)

6.116 The USSD 2004 also stated that

"The Government provided temporary protection to more than 500 individuals who did not qualify as refugees under the 1951 Convention/1967 Protocol. The Government, with the assistance of UNCHR, provided 500 Haitians with temporary protection and resettlement. Approximately 281 Haitians applied to the Government for refugee status, but their applications were denied in accordance with the 1951 Convention. Approximately 200 Haitians appealed the decision, and trials were scheduled to begin in January 2005." [8](p5)

6.117 An article in the Jamaica Gleaner dated 21 February 2005 noted that, "The influx of Haitian refugees continues to increase as 55 more boat people landed at Edison Bay, Manchioneal, on Saturday [19 February 2005]....The refugees say that they were fleeing political persecution and the economic hardships being experienced in their country." [34eh]

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6.B Human Rights - Specific Groups

6.118 The USSD 2004 stated that "The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment,

particularly in the garrison communities." [8](p6)

Ethnic Groups

6.119 The CIA - The World Factbook - updated 27 January 2005 noted that, Jamaica is made up ethnically of black 90.9%; East Indian 1.3%; white 0.2%; Chinese 0.2%; mixed 7.3%; and other 0.1%. [4](p3)

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Women

6.120 A report produced by The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) dated 25 February 1998 noted that, Jamaica ratified the Convention on 19 October 1984. In 1995 Jamaica further committed itself to the struggle for women's equality by adopting the Forward Looking Strategies (FLS) generated at the Third World Conference on Women in Nairobi, Kenya. [50b](p3)

6.121 The same CEDAW Report (Second, third and fourth periodic reports of States parties) further noted that there are several institutions and/or authorities in Jamaica which have the responsibility of ensuring that the principle of equality between men and women is complied with in practice. Several NGOs have played an important complementary role to the government's programmes through the expansion of 'parenting education' training programmes, the establishment of shelters and counselling services for battered and abused women, research, documentation and public education programmes. Other NGOs involved in these activities include: the Association of Women's Organisations of Jamaica, Women's Political Caucus, St Peter Claver Women's Housing Cooperative and the Women's Construction Collective. [50b](p7-8)

6.122 At the CEDAW (502nd & 503rd) Meeting ('Women's Level of Participation in Jamaican Public Life Questioned by Anti-discrimination Committee') held on 26 January 2001, the Executive Director of the Bureau of Women's Affairs of Jamaica, Glenda Simms, spoke at length on women's issues. The CEDAW Press Release stated that

"She [Glenda Simms] went to say that one of the great contradictions of Jamaican society was that despite women's great academic achievements they occupied few positions of real power and influence... Poverty continued to affect all aspects of women's lives, and several programmes had been initiated to address that problem, she continued, Rural and city women and domestic workers received priority attention. The strategy for wider integration of women in the tourist sector of the economy enjoyed the Government's support. However, sex tourism, prostitution and sexual exploitation of young girls still presented a challenge." [50a](p3)

6.123 The USSD 2004 noted that

"The law prohibits prostitution; however, it was widespread, especially in tourist areas....The Constitution and the Employment Act accord women full legal equality; however, in practice women suffered from discrimination in the workplace and often earned less than their male

counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women.... There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Womeen's Inc., and the Centre for Gender and Development Studies at the University of the West Indies.. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women." [8](p7)

6.124 The USSD 2004 also stated that

"During the year [2004], the Government took steps to reduce gender bias in legislation. On February 17 [2004], Parliament passed the Family Property (Rights of Spouses) Act to provide for the equitable division of property between spouses following a divorce. On December 7 [2004], Parliament passed an amendment to the Domestic Violence Act that expanded the definition of a child to anyone under 18 years old and extended the provisions of the act to include couples living in separate domiciles." [8](p7) (See section on Domestic Violence)

6.125 The USSD 2004 also noted that "There is no legislation that addressed sexual harassment, and it was a problem. There were reports of sexual harassment of women by the police, but some observers believed that women did not often report such incidents because there was no legal remedy." [8](p7)

6.126 A report produced by the Women of the World - Laws and Policies Affecting Their Reproductive Lives issued January 2001, noted that

"In addition to legally recognised marriages, many couples form 'visiting unions', in which the man visits the woman, often at the parental home, or common-law marriages, many of which develop out of visiting unions. Couples often live together for years and raise several children together before entering a legal union. However, a recent study of the Kingston Family Court found that in most Jamaican families women are at the core of the family unit, while men tend to be more transitory, although they still play an important financial role." [3](p136)

6.127 The same 'Women of the World Report' stated that "There is only one ground for divorce: an 'irretrievable breakdown' of marriage." [3](p136) The Report also states that "Jamaican law enables women to obtain support for children from the fathers. Because 42% of Jamaican women are heads of households, more than 80% of Jamaican children are born out of wedlock." [3](p137)

6.128 On 19 February 2004, the Jamaica Gleaner reported that "Women's groups yesterday [18 February 2004] hailed landmark legislation which will give equal shares to spouses involved in a failed marriage or common-law relationship. Female MPs and others gave a standing ovation

when the House of Representatives on Tuesday [17 February 2004] passed the Family Property (Rights of Spouses) Act." [34a]

6.129 As reported in the Jamaica Gleaner dated 22 November 2004, "There has been as almost 50 per cent jump in the number of women and children killed violently since the start of this year [2004] when figures are compared to last year's.... Since January [2004], 1229 women and 14 children have died violently, up from 857 women and seven children from 2003. Domestic violence accounted for 55 of these deaths." [34d]

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Domestic Violence

6.130 The USSD 2004 noted that

"Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to approximately \$160 (J\$10,000) and 6 months' imprisonment. The Government's Bureau of Women's Affairs operated crisis hotlines and shelters and managed a public education campaign to raise the profile of domestic violence. " [8](p6)

6.131 The USSD 2004 noted that

"Rape was illegal and carried a penalty of up to 25 years' imprisonment with hard labor. During the year [2004], the number of reported incidents of rape decreased by 8 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. During the year [2004], in Kingston/St. Andrew, there were 208 arrests, of which 50 cases went to court and 25 ultimately were convicted and sentenced." [8](p6)

6.132 The 2001 'Women of the World' Report on Jamaica further mentioned that

"The law relating to rape is governed by the Offences Against Persons Act. Pursuant to this legislation, rape is punishable by life imprisonment. While the crime of rape is not defined in the Offences Against Persons Act, it is clear from recent attempts to reform the act that only vaginal intercourse is considered rape. An attempt to commit rape is punishable by 7 years' imprisonment, but if a weapon is used in the attempt, the sentence is a maximum of ten years' imprisonment. The act also prescribed sentences for other sexual offences, such as indecent assault, and offences against minors, such as carnal abuse, which is defined as sexual intercourse with a girl under 16 years of age. There is currently a draft bill to amend the Offences Against Person's Act, which seeks to change the law. The amendment would make the offence of rape gender-neutral; prohibit the publication of a rape

complainant's identity; and specify that rape includes penetration of the vagina or anus by any object or part of a person's body." [3](p139)

6.133 The same 'Women of the World' report also noted that

"There are two statutes that protect spouses from domestic violence, the Domestic Violence Act and the Matrimonial Causes Act. Pursuant to these statutes, abused spouses may apply to the court for orders to exclude an abuser from the home in which both parties had been living or from going to or near to the workplace, school, or any other specified location where the abused spouse or child may be found. The Domestic Violence Act applies equally to persons in marital and nonmarital relationships. Applications under the Matrimonial Causes Act, however, which are brought in the Supreme Court, may only be brought by married persons." [3](p139)

6.134 An article in the Jamaica Observer dated 22 June 2004 noted that, Clarendon residents who are concerned about the levels of crime in their communities now have somewhere else to turn, in addition to the police. The island's first crime prevention committee was launched on 11 June 2004 and is part of the Ministry of National Security's parish crime prevention programme. In addition to curbing major crimes, the committee will also focus on finding ways to reduce the level of domestic violence, personal conflicts and criminal activities in the parish. [36a]

6.135 The Independent Jamaica Council for Human Rights (1998) limited (IJCHR) website noted that the following are criminal offences:

To assault, injure or wound a spouse or partner.

To threaten and put a person in fear.

To rape and force a woman to have sexual relations against her will.

To destroy property.

There also exists a number of institutions in Jamaica with responsibility for ensuring the equal rights of men and women. [31b]

6.136 AI, according to their Media Advisory document entitled 'End the Silence, Stop the Violence - new campaign to stop domestic violence' - dated 23 November 2004, launched a campaign called 'Stop Violence Against Women' in March 2004, and announced that they would be launching a series of radio public service announcements in Jamaica. AI said that these are aimed to reach and influence Caribbean men, and to raise awareness around violence against women in the region. [9]

6.137 The Jamaica Observer dated 30 November 2004 stated that while addressing a forum on 'Sexual violence and the Spread of HIV/AIDS',

"Lobbyist Dr Glenda Simms is urging sexually abused women in the upper echelons of society to speak out more about their experiences as victims of violence, as a means of empowering their lives less affluent counterparts to do likewise.... Simms, in her presentation, noted the disparity in the reporting of sexual violence against women in the inner cities as opposed to those in more affluent communities, especially those instances that led to the death of the victim. But she charged that generally

violence against women often goes unreported in the media because the lives of these women were not considered newsworthy, despite the other problems that the abuse spawns." [36az]

6.138 On December 7 [2004], Parliament passed the Domestic Violence (Amendment) Act 2004. The Bill provides for the widening of the categories of persons who may apply for a protection order, to include any person who resides in the respondent's household or who is in a visiting relationship with the respondent. The Bill also provides for applications for protection orders to be made by a Constable or a person who is given leave to apply by the Court on behalf of a spouse, or other member of the respondent's household or a person who is in a visiting relationship with the respondent, upon the written consent of that person. The Bill also provides for maintenance orders to be made in conjunction with protection and occupation orders. [68] A copy of the Domestic Violence Act (1995) is annexed as source [67].

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Children

6.139 The USSD 2004 noted that

"The Government was committed to improving children's welfare. The Ministry of Education, Youth and Culture was responsible for implementation of the Government's programs for children. Public primary education was free, universal, and compulsory for students between the ages of 6 and 11, and the Ministry of Education reported that 99 percent of children in that age group were enrolled in school. However, economic circumstances obliged thousands of children to stay at home to help with housework and avoid school fees. As a result, attendance rates at primary schools averaged 78 percent, although some rural areas reported attendance as low as 50 percent. More than 70 percent of children between the ages of 12 and 16 had access to secondary school, and UNICEF reported that most children completed secondary education." [8](p7)

6.140 Also noted in the USSD 2004,

"There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. NGOs reported that inner city gang leaders and sometimes even fathers initiated sex with young girls as a 'right'. There were 409 cases of statutory rape--sex with girls under 16--reported, an 8 percent increase over the same period in 2003. The Government expressed concern about child abuse and acknowledged that incidents were underreported. The Child Development Agency (CDA) held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act." [8](p7)

6.141 The USSD 2004 also noted

"In March [2004], the House of Representatives and the Senate passed the Child Care and Protection Act, which replaced the Adoption of Children Act and the Juvenile Act. The Act generally provided for more

support for the family unit and the improved safety of children, including prohibitions against trafficking in minors. It also established mechanisms, including a central child abuse registry and an Office of Children's Advocate, to monitor and defend the well being of children." [8](p7)

6.142 An article in the Jamaica Gleaner dated 24 February 2005 noted that,

"HIV/AIDS, violence and poverty are the three ills identified by UNICEF as robbing Jamaican children of their childhood. Bertrand Bainvel, a representative of UNICEF, made the disclosure yesterday [23 February 2005] while giving an overview of the situation of children in Jamaica. His review showed rising numbers of children estimated to have been orphaned by HIV/AIDS or murdered, as well as a decline in immunisation rates.... Meanwhile, 119 children were reported to have been murdered in 2004, 430 were shot and more than 900 were said to be victims of sexual abuse, including rape. ... He said immunisation rates were about 90 per cent in 2000 but this declined to approximately 80 per cent in 2003 with preliminary figures up to October in 2004 showing further slippage. The UNICEF representative called for parliamentarians to quickly review the National HIV/AIDS Policy and for relevant ministries to increase access to treatment for people living with HIV/AIDS. He said there was need to significantly expand the prevention activities and education among teenagers and to support legislation that would prohibit any form of discrimination." [34eg]

6.143 A Jamaica Gleaner article dated 12 January 2004 reported that, the new Child Care and Protection Act was being examined by a Joint Select Committee and will be taking its recommendations to Parliament by the third week of February [2004]. [34i]

6.144 An article in the Jamaica Observer dated 14 March 2004 reported that Senate, on 11 March 2004 passed the Child Care and Protection Act with four amendments after a marathon sitting in which Opposition and Government senators agreed on the bulk of the provisions, but with significant points of departure. The article states that

"One issue concerned banning the sale or serving of intoxicating liquor or tobacco products to children in section 40 of the Act. Jamaica Labour Party senator, Shirley Williams, maintained that since the Government was intent on 'legalising the use of marijuana (ganja)', then that substance should be mentioned in the legislation as being unfit for sale or use by children as well. But her suggestion was immediately ruled inappropriate by A J Nicholson, the attorney-general and justice minister, who said the recent recommendation by a House select committee to 'allow the possession of small quantities' of the plant in private was in no way tantamount to legalisation of the drug. After some passionate arguments on the legalities, Williams offered that a compromise arrangement could possibly be to adopt a clause such as existed in the United Nations Convention on the Rights of the Child, concerning the illicit use of psychotropic drugs. She conceded, however, that 'the act is an excellent one, though well overdue'." [36ar]

6.145 As reported in an article in the Gleaner dated 24 June 2004 a campaign to inform the public about the Child Care and Protection Act was officially launched on 23 June 2004. The Minister of Health, John Junor said that "The public education programme will focus on informing and educating the Jamaican public on the tenets of the Act with the aim of increasing awareness of the rights of children and the responsibility of adults to respect and uphold these rights.... The Act was passed in March [2004], following a lengthy process of consultations and reviews which started in the early 1990s." [34ab]

6.146 The Jamaica Gleaner dated 27 February 2005 noted that

"Many Jamaicans are ignorant of the existence of the Child Care and Protection Act (CCPA), which facilitates the prosecution of parents who deliberately neglect their children. The act reaffirms that children are the subjects of rights and that collectively, individuals, families, communities, institutions and the government are duty-bound to ensure that these rights are promoted, protected and upheld. Under the act, it is mandatory that persons with information of neglect or abuse of children report such situations to the relevant authorities. It also places a duty on every person responsible for the maintenance of a child to provide the child with adequate food, clothing, lodging and health care appropriate to the age and needs of the child. Section 28 of the act states that 'Every person having the custody, charge or care of a child between the ages of four and 16 years shall take such steps as are necessary to ensure that the child is enrolled at, and attends, school'. ...If a person is financially unable to provide for a child, the law states that the person can apply to the Minister (of Education) for assistance. However, ignorance is never an acceptable excuse for breaching the law. Still, upon being enlightened about some of the core clauses in the CCPA, many persons with whom The Sunday Gleaner spoke expressed reservation in contacting the authorities if they were aware of a case where a breach of the CCPA was occurring." [34bs]

6.147 The Jamaica Observer dated 19 November 2004 reported that despite universal gains in several areas of child development rights and protection, the United Nations Children Education Programme (UNICEF) contends that too many of Jamaica's children are facing complex threats of violence, HIV/AIDS and exclusion. Almost a quarter of the island's children live in poverty, said Bertrand Bainvel, the UNICEF representative to Jamaica. "There is no question that Jamaica has made remarkable progress in advancing the rights of the children - and so often with limited financial resources," said Bainvel. [36as]

6.148 The Jamaica Observer dated 22 February 2005 reported that

"Persons who file complaints or make reports to the Child Development Agency (CDA) about abused children are required to provide their name and address, says the agency's chief executive officer Allison Anderson. On average 14,000 cases of abuse or need for assistance are referred to the CDA per year.... Persons can file reports via telephone, either through the phone numbers listed in the yellow pages or the toll free line 1-888-991-3353 toll; or reports of abuse or neglect can be filed at a local police station." [36ba]

6.149 As reflected in the concluding report by the UN Committee on the Rights of the Child, released 6 June 2003, "Among positive aspects were the progress made by the State party in several areas, including the establishment of the child support unit, the participation in frameworks of international co-operation concerning the implementation of the Convention and the accomplishments within the area of health, such as National Strategic Plan for HIV/AIDS." [29](p2)

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Protection and Alternative Child Care

6.150 As mentioned in a letter from the Ministry of Health, Children Service Division, Kingston, dated 17 February 2003, there are Child Care Institutions owned and operated by the State while others are owned by Private Individuals/Organisations. The Institutions are licensed by the Children's Services Division, Ministry of Health and are subject to regular monitoring by the State. There are fifty two (52) such institutions in Jamaica and there is need for others specifically catering to children with special needs - mentally and physically challenged or displaying extreme behaviour difficulties. Childcare Institutions provide care for children from Birth to eighteen (18) years of age. However, there are some children who have attained age eighteen (18) years and must remain in the facility due to their specific needs/circumstances. [40]

6.151 The Jamaicans for Justice website's undated Report on Abuse in Children's Homes and Places of Safety accessed 22 February 2005 noted that

"Children's Homes are established for the accommodation and maintenance of children for period up to 18 years. The Place of Safety is intended to accommodate the juvenile on a temporary basis. Children's Homes may be provided by voluntary organizations or by the government and administered by the Children's Services/Child Development Agency. A valid licence has to be granted by the responsible Minister before a Children's Home can be established or maintained. The licence may contain such terms and conditions as the responsible Minister, now the Minister of Health, at his discretion, thinks fit." [72](p14)

6.152 The Jamaicans for Justice website's undated Report on Abuse in Children's Homes and Places of Safety, accessed 22 February 2005, also stated that

"Data presented by the Ministry of Health states as at March 2003, there are 7 children's homes/places of safety in Jamaica. This number includes twelve (12) places of safety and forty-five (45) homes. Four (4) of the places of safety are privately run and eight (8) are operated by the State. There are forty (40) private children's homes and five (5) operated by the State. There are an estimated 2,402 children in children's homes and places of safety. Forty-two (42) of these homes completed survey instruments sent out to them during this Review. Of these forty-two (42), thirty-three (33) are children's homes and eight

(8) are places of safety. One home in this sample was opened in 1,880 and the newest home was opened in 2002." [72](p54-55)

6.153 The letter dated 17 February 2003, from the Ministry of Health also stated that

"If a child has to be returned to Jamaica efforts would be made to identify relatives who would be willing and able to care for him. If there were no relatives, and the child has to be returned to Jamaica, this Division [Child Services Division] would meet him/her at the airport and arrange for reception in care of the State. The case would be referred to the Juvenile/Family Court for an order (Fit Person Order) to allow for alternate placement. The child would automatically gain entrance into an Educational Institution/School on their return." [40]

6.154 The above-mentioned Jamaicans for Justice website's undated Report on Abuse in Children's Homes and Places of Safety, accessed 22 February 2005, also noted that

"The number of Care and Support staff varies significantly primarily as a result of the size and numbers of children in each home. There is no consistent relationship to establish whether a standard ratio of caregiver to children has been established. One home employs up to 91 persons on the care staff, of which 56 are full time workers, at the other end of the spectrum one has 2 persons employed on a full-time basis. The home employ an average of 7 full-time support staff, although the number for each home varies significantly, with one home having up to 36 support workers and three homes having three (3) support workers." [72](p57)

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Homosexuals

6.155 According to the International Lesbian and Gay Association [ILGA] website accessed 21 February 2005, Sections 76 - 79 [of the Jamaican] Penal Code criminalises homosexual intercourse between men with a penalty of up to 10 years imprisonment, with or without hard labour. Same sex female homosexual activity is not mentioned. [39]

6.156 The Jamaica Forum for Lesbians, All-Sexual and Gays (J-Flag) website, accessed 21 February 2005 states

"J-Flag is actively lobbying for legal reform. Our Parliamentary Submission to amend the non-discrimination clause within the Constitution to include sexual orientation was reviewed by the Joint Select Committee on the Charter of Rights Bill. In December 2001, the Committee made its recommendations to Parliament. It declined to support our proposed amendment but did recommend that the House consider repealing the Buggery Law. We [J-FLAG] are now strengthening our efforts to ensure the successful passage of this bill through parliament, and will continue to push for the amendment to the constitution." [26a]

6.157 The J-Flag website also stated that

"Contrary to popular belief, it is not actually illegal to be homosexual in Jamaica. Being a homosexual does not contravene any of the existing laws; however, the law makes certain 'homosexual acts' illegal, and these laws are used to persecute gay men. They state that "acts of gross indecency" and buggery [anal sex] are illegal. Although buggery refers to anal sex between a man and another man, a woman or an animal, in practice the law is predominately enforced against two men. Lesbians are also discriminated against in the wider society, however no laws target lesbians or lesbian conduct." [26c]

6.158 The J-Flag website further noted that "The Offences Against Persons Act prohibits "acts of gross indecency" between men, in public or in private. (This is a very general term which can be interpreted to mean any kind of physical intimacy)." Under:

- Article 76 (Unnatural Crime); "Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years."
- Article 77 (Attempt); "Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour."
- Article 78 (Proof of Carnal Knowledge); "Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only."
- Article 79 (Outrages on Decency); "Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour." [26c]

6.159 The J-Flag website also gave details on 'Your Rights, Duties and Responsibilities as a Jamaican Citizen' - one of them being that "As a Jamaican citizen you also have through the Constitution, the right to have your privacy respected within your home and family." [26c]

6.160 The J-Flag website stated that, J-Flag among other things: does significant personal development and community building in the gay community. They offer counselling and referral services to gay people and their families. They consult and collaborate with noted local and international figures and human rights/health/political interest groups. J-Flag are currently in the process of working for constitutional and other legislative changes and have made written submissions to the Joint Select committee of the Houses of Parliament for the inclusion of 'Sexual Orientation' as a basis on which the Constitution of Jamaica prohibits discrimination. They maintain a library and archive of resource for academic research. [26b]

6.162 There were no reports among the sources consulted by the Research Directorate of the Immigration and Refugee Board, Ottawa JAM35108.E dated 21 August 2000 accessed 25 February 2002, on the police protection available to homosexuals [106] However, a report in the Jamaica Gleaner - a Go-Jamaica Feature 2001 - on Gays in Jamaica stated that

"Homosexuals are increasingly becoming the targets of hate crimes in Jamaica but are afraid to press charges against their assailants for fear of bringing attention to their lifestyle.... Earlier this year [2001], several students attending the Northern Caribbean University in Mandeville were attacked and beaten for alleged homosexual involvement.... The police, too are aware of some of the attacks which have been made on gays but note that they hardly have enough evidence to go on. Several months ago [prior to publication of this feature in 2001] in St Catherine, police officers had to rescue two men from being killed by a group of angry residents. The men were allegedly caught having oral sex in the back seat of a car. 'Yes it is something that happens quite frequently,' explained an officer attached to the Montego Bay police station. "Homosexuals are afraid to report some of the atrocities that have been carried out against them for fear of being exposed so they remain quiet while criminals walk free. Police officers many of whom are openly hostile towards gays, are also to be blamed for this. As a member of a human rights group, it is my belief that hate crimes, regardless of against whom, are wrong and should be condemned." [34z]

6.162 The above-mentioned 2001 feature in the Jamaica Gleaner also states that

"Public Defender, Howard Hamilton, said that he is outraged at the level of hate crimes going on in the country. Speaking recently at the annual general members meeting of the Cornwell Bar Association held in Green Island, Hanover, Mr Hamilton warned that he would soon be instructing lawyers engaged in private practice to file cases in the courts against the state and any other bodies on behalf of citizens who make strong allegations on breaches of their constitutional rights. He also noted that attorneys would be paid for their services." [34z]

6.163 The 2001 Jamaica Gleaner report feature also mentioned that "Clayton Morgan, president of the Cornwell Bar Association, said that his organisation would be working closely with the Public Defender's office to stem the flow of hate crimes in the country. He said that the homophobic nature of the country makes it easy for homosexuals to be targeted and that people at times are reluctant to assist them for fear of being branded." [34z]

6.164 The USSD 2004 noted that

"The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of homosexuals. Police often did not investigate such incidents. Some of the country's most famous dancehall singers gained

the attention of international human rights groups during the year for their homophobic lyrics, which incited violence against homosexuals. A 2001 poll found that 96 percent of citizens were opposed to legalizing homosexual activity." [8](p8)

6.165 An article dated 19 February 2004 in the Jamaica Observer mentioned that owing to the homophobic nature of Jamaica, gay men can hardly expect protection even from their parents. A father, concerned that his son might be gay, turned up at Dunoon Park Technical School in east Kingston and apparently encouraged other students to beat his son. School officials withheld the boy's name and the extent of his injuries was not immediately known. As students began to maul his son, the man is reported to have driven away. [36h] The Washington Blade noted in an article dated 27 February 2004 that law enforcement officers, [at the time] headed by Jamaican Commissioner of Police Francis Forbes, also were attacked when they arrived to save the teen, the Observer reported. The extent of the youngster's injuries was not known, according to the Observer. Police officials declined to take further action, claiming it was a family matter. [30]

6.166 The USSD 2004 also reported that "On June 9 [2004], Brian Williamson, a prominent homosexual rights activist and founding member of J-FLAG, was found stabbed to death at his home in Kingston. Human rights groups believed that the brutality of Williamson's death indicated a hate crime, but the JCF maintained that the crime was a robbery. A suspect was remanded in custody at year's end [2004]." [8](p8) [For more information see paragraph 6.174 to 6.177]

6.167 In November 2004, a Human Rights Watch report entitled 'Hated to Death: Homophobia, Violence and Jamaica's HIV/AIDS Epidemic' noted that violent acts against men who have sex with men are commonplace in Jamaica. Verbal and physical violence, ranging from beatings to brutal armed attacks to murder, are widespread. For many, there is no sanctuary from such abuse. Men who have sex with men and women who have sex with women reported being driven from their homes and their towns by neighbors who threatened to kill them if they remained, forcing them to abandon their possessions and leaving many homeless. The testimony of Vincent G., twenty-two, is typical of the accounts documented by Human Rights Watch: "I don't live anywhere now.... Some guys in the area threatened me. 'Battyman, you have to leave. If you don't leave, we'll kill you.'" [64b](p2) .

6.168 The November 2004 HRW Report also stated that "Victims of violence are often too scared to appeal to the police for protection. In some cases the police themselves harass and attack men they perceived to be homosexual. Police also actively support homophobic violence, fail to investigate complaints of abuse, and arrest and detain them based on their alleged homosexual conduct. In some cases, homophobic police violence is a catalyst for violence and serious—sometimes lethal—abuse by others." [64b](p2)

6.169 The November 2004 HRW further mentioned that

"Jamaican health officials acknowledge that Jamaica's sodomy laws make it difficult for them to work directly with men who have sex with men. As one high-level health official told Human Rights Watch: 'We

don't promote direct programs or services to MSM [men who have sex with men] as a group because the existing laws impede this work [and] because [of] the high-level of stigma and discrimination, they're not open to getting services through the public sector.' The police, however, actively impede government-supported peer HIV prevention efforts among men who have sex with men and also among sex workers. AIDS outreach workers reported that the very possession of condoms—a key tool in HIV prevention—triggers police harassment, and in some cases, arrest and criminal charges.” [64b](p4)

6.170 Responding to the above mentioned November 2004 HRW Report, the Jamaica Gleaner dated 18 November 2004 reported that the

"Government yesterday [17 November 2004] dismissed claims by the international body, Human Rights Watch, that the authorities have been soft on police abuses on homosexual males and persons affected by HIV/AIDS. 'We find the approach of this organisation unacceptably insensitive,' Information Minister Burchell Whiteman said in a statement issued to the media yesterday [17 November 2004]. 'We also as the duly elected representatives of the people feel that it is the people who must set our agenda in respect of the legislation which we pass or the repeal of any existing laws. We are currently not about to respond to any organisation, external to this country, which may want to dictate to us how and when to deal with the laws of our land,' said Senator Whiteman.... The international body also criticised the Government's stance on legislation (the buggery law) on homosexuality, which they say is a 'discriminatory legislation'." [34d]

6.171 The Jamaica Gleaner dated 19 November 2004 also noted that the Police Federation also condemned the findings published in the November 2004 HRW report and called on the minister of justice to slap sedition charges on the body and local groups, which they say were slandering both the government and the police force. [34dk] The Jamaica Gleaner dated 29 November 2005 noted that "While careful to point out that they were not advocating violence against gays, panellists at Saturday's [27 November 2004] 'Men on a Mission' conference in Montego Bay denounced homosexuality as a moral defect, saying it should not be sanctioned by the Church." [34dl]

6.172 A Human Rights Watch document dated 30 November 2004 stated that

"Jamaican authorities should reject a police demand to press criminal charges against local human rights defenders who have criticized police abuses against gay men and people living with HIV/AIDS, Human Rights Watch said today [30 November 2004] in a letter to the Jamaican prime minister.... Five Jamaican human rights organizations — Families Against State Terrorism, the Independent Jamaica Council for Human Rights, Jamaica AIDS Support, Jamaicans for Justice, and Jamaican Forum for Lesbians, All-Sexuals, and Gays — all joined Human Rights in the launch of the report. The report led to furious denials by Jamaican government officials, who claimed that police abuse doesn't take place. Officials also defended Jamaica's sodomy laws, Victorian-era legislation introduced by Britain when it was the

colonial power, as basic to the country's sovereignty and culture. However, Jamaica is party to the International Covenant on Civil and Political Rights, a treaty that prohibits discrimination on the basis of sexual orientation.... In an open letter to Prime Minister P.J. Patterson, Human Rights Watch responded in detail to criticism by Jamaica's commissioner of police and by the head of the National AIDS Program. The Jamaican police should investigate allegations of homophobic abuse submitted to it months before, Human Rights Watch said." [64c]

6.173 As reported in an article dated January 2002 in SHAAN online - IPS e-zine on Gender and Human Rights, according to J-Flag, alleged homosexuals in the inner city are particularly at risk. In 2002, a homosexual man was shot to death as he sought refuge in a churchyard in central Kingston. [25]

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Death of gay rights activist Brian Williamson

6.174 An AI Press Release - AMR 38/010/2004 dated 10 June 2004 – 'Amnesty International mourns loss of leading human rights defender' stated that

"Amnesty International today [10 June 2004] mourns the loss of Brian Williamson, brutally murdered on 9 June 2004, and urges that a thorough investigation be conducted into his death.... The police have concluded that the motive for the murder was robbery due to the reported removal of a safe. Amnesty International urges the investigating authorities to keep an open mind as to the motive behind this killing.... There remains a strong possibility that Brian Williamson's profile as a gay man and advocate of homosexual rights made him a target for those with homophobic views. The taking of money or other items may have been an afterthought by the perpetrators of the killing with the primary motivation for the murder being hatred to homosexuals." [9h]

6.175 In a release by the International Gay and Lesbian Human Rights Commission (IGLHRC) dated 14 June 2004 they stated that

"The International Gay and Lesbian Human Rights commission (IGLHRC) mourns the death of long-time friend and colleague, Brian Williamson, a gay activist from Jamaica found murdered in his home in Kingston last week. Brian was a founding member of Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG) and one of the country's most visible and outspoken activists." [41]

6.176 A Jamaica Gleaner news report dated 10 June 2004 stated that

"The death of Brian Williamson, outspoken gay rights activist and founding member of the Jamaica Forum for Lesbians, All-Sexuals and Gays (J-FLAG), sent shockwaves throughout the local gay community yesterday [9 June 2004]. According to police reports, the 59-year-old Williamson was found with multiple chop wounds in his apartment at 11:15 a.m.. Investigators suspect robbery to be the main motive for the killing as a safe with valuables was missing, and the apartment had been ransacked. However, while the police suspect robbery as the

main motive, the gay rights advocacy group J-FLAG was quick to label Williamson's death as a 'hate crime'". [34as]

6.177 The same article also quoted one of his friends as saying that

"He was very sweet, and the most adorable person you could find, very kind and trusting, and I believe that is what led to his death. He was my landlord, but he was like family to me, we would joke about the coincidence of us having the same last name, she said, in between sobs. 'I don't think he was killed because of his ...sexual orientation, he was just too trusting'." [34as]

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Lesbians

6.178 The J-Flag website also states that

"Contrary to popular belief, it is not actually illegal to be homosexual in Jamaica. Being a homosexual does not contravene any of the existing laws; however, the law makes certain 'homosexual acts' illegal, and these laws are used to persecute gay men. They state that "acts of gross indecency" and buggery [anal sex] are illegal. Although buggery refers to anal sex between a man and another man, a woman or an animal, in practice the law is predominately enforced against two men. Lesbians are also discriminated against in the wider society, however no laws target lesbians or lesbian conduct." [26c]

6.179 The Jamaica Gleaner dated 1 February 2005 reported that

"A lesbian couple in Kingston is seeking to formalise their relationship, hoping to give each partner the rights and privileges usually offered to spouses to long term partners in heterosexual relationships. However, Bert Samuels, an attorney at law says that any legal arrangements made by these women may not be recognised under law because homosexuality is illegal in Jamaica.... The couple who have been together for two and a half years, is currently looking are wedding rings and said they will be having a formal ceremony- with an ordained minister, but not in a church, to mark their commitment to each other in April." [34dm]

6.C Human Rights - Other Issues

Organised Crime and Corruption

6.180 An Amnesty International Press Release [AMR 38/019/2003] issued 16 October 2003 stated that

"739 murders are reported to have taken place so far this year [up to 16 October 2003] in Jamaica. A large proportion of these constituted reprisal killings, gang-related and domestic incidents. Jamaican media estimate that firearms were used in around 75% of the murders committed in the first three months of this year [2003]." [9e]

6.181 The Jamaica Gleaner reported on 17 January 2005 that

"In just 16 days, at least 77 persons have been murdered across the island.... Exactly one year ago January 17, 2004, the Gleaner reported a murder toll of 28 as recorded by the police by year end the toll was 1,469.... Police say reprisals continue to be the leading motive behind most of the killings.... Speaking with the Gleaner a week ago [approximately 10 January 2005] newly-appointed Police Commissioner Lucius Thomas said managing and reducing the country's frightening homicide rate will be his main priority." [34db]

6.182 A report in the Miami Herald dated 11 March 2003 reported that new policing initiatives and approaches to crime control appear to have reduced fighting and tension in some of the inner city areas of Kingston. In Tavares Gardens nearly 100 days after the Government imposed a 24-hour curfew on the neighbourhood fighting had all but stopped. The National Security Minister attributed this success to the police maintaining a longer presence in these areas and developing a community style of policing. The article goes on to say that "The worst violence and murders were limited largely to a ten-square mile area of Kingston far from the tourist resorts but the reputation casts a shadow over the island's image as an ideal tourist destination and discourages investment for badly needed jobs." [53]

6.183 An article in the Jamaica Gleaner dated 2 January 2004 noted that, Jamaica saw its first murder of 2004 with the death of 34-year-old Mark Anthony Grant, labourer of an Orange Street address, downtown Kingston. Grant's murder follows the death on New Year's Eve of another labourer, 53-year-old Fitzgerald Henry. According to reports, Mr Henry who is of a Spanish Town Road address, was standing at his gate when he was pounced upon by gunmen. Up to press time, the CCN [Constabulary Communication Network] had not compiled the final murder figures for the year [2003]. However, indications are that despite the upsurge in killings immediately after the Christmas holiday, murders have not passed last year's mark of 1,045. There were 971 reported murders up to December 30 [2003]. [34c]

6.184 The Gleaner newspaper dated 29 August reported that

"[then] Police Commissioner Francis Forbes says he's not to be blamed for the record number of murders and the unacceptable crimes committed under his watch, as these trends have dogged past Commissioners over the past 30 years. In fact, the Commissioner claimed that since he took office in October 1, 1996, there has been a general reduction in major crimes. Major crimes listed by the police as of 2003 are murders, shootings, sexual offences, felonious woundings and robberies. Felonious woundings were not listed among major crimes up to 2002. Since January [2004], there has been more than 900 murders almost as many as the 975 in 2003 alone. At the current rate, the number of murders may well pass the record 1,139 in 2001 if actions are not taken to stem the carnage." [34b]

6.185 Another article in the Gleaner dated 29 August 2004 reported that

"Even as the police boast major crimes outside of murder are trending downwards, the number of victims of such crimes turning up at local

hospitals remain worrying. Statistics are never wrong, many people argue, but this seem[s] to depend on who is keeping the records. The police data is collected by its officers within the field while the hospitals records are based upon those treated at the facilities.... The police report nearly three hundred fewer cases than recorded by the health facilities... However, Minister of Health, John Junor, while not commenting on the relationship between the police and hospitals said 'I believe our figures are reasonably accurate.'" [34bn]

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6.186 An article in the Jamaica Gleaner dated 12 December 2004 noted that "With just 19 days before the end of the year [2004], the country's murder rate continue to race unabated, towards the 1,500 mark." [34da] However, an Associated Press article dated 2 January 2005 noted that Jamaica, an island nation of 2.6 million people, reported a record 1,145 murders for 2004, compared with 975 the year before [2003]. Police blame much of the violence on street gangs vying for control of lucrative drug and extortion rings. [54e]

6.187 The Jamaica Observer dated 7 February 2005 noted that at least 120 persons have been killed so far in 2005. [36aw]

6.188 The Jamaica Gleaner reported on 17 January 2005 that

"In just 16 days, at least 77 persons have been murdered across the island.... Exactly one year ago January 17, 2004, the Gleaner reported a murder toll of 28 as recorded by the police by year end the toll was 1,469.... Police say reprisals continue to be the leading motive behind most of the killings.... Speaking with the Gleaner a week ago [approximately 10 January 2005] newly-appointed Police Commissioner Lucius Thomas said managing and reducing the country's frightening homicide rate will be his main priority." [34db]

Gang Violence

6.189 An undated report by Jamaicans for Justice accessed 24 February 2004 'Jamaica's Human Rights Situation' noted that

"Jamaica's socio-political background is a picture of the promise of independence marred by a culture of political tribalism. This culture of tribalism, which has seen the entrenchment of political power as the pinnacle of achievement, has resulted in the creation of an increasingly violent society in which human rights are honored on paper but not in practice...." [51a](p1)

6.190 The same Jamaicans for Justice report noted that

"Jamaica today is a case study in tribalist politics typified by inner-city 'garrison' communities, that are entrenched in state-built housing, are politically homogenous, intolerant of dissenting views, and defended by guns and bullets.... Out of structures created by political wars, 'community' youth gangs have emerged to fight over turf and account for 20-25 percent of homicides. Criminal gangs linked with US 'posses', UK 'yardies', and now, most lethally, with elements of the Colombian drugs trade menace the entire fabric of society." [51a](p2)

6.191 An article in the Jamaica Gleaner dated 12 January 2004, stated that "High-ranking national security officials from Jamaica and New York City are planning to establish a partnership to break the crime links between the two places." [34p]

6.192 An Associated Press article dated 23 October 2002, commenting on the October 2002 elections stated that "This year more than 800 people have died violently in Jamaica, police say, though many blame the killings on feuding drug gangs. Prime Minister Patterson vowed to resume executions as a way to curb violent crime." [55]

6.193 The USSD 2004 noted that "Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs were often better equipped than the police force and conducted coordinated ambushes of joint security patrols." [8](p1-2)

6.194 A Jamaica Gleaner article dated 27 January 2004 noted that in December 2003

"Following a spate of high-profile murders in the troubled areas of Kingston, Spanish Town and Montego Bay, there is a renewed call for a gun amnesty from political quarters to help stem the accessibility of hardened criminals to illegal guns in the island. However, groups such as Families Against State Terrorism (FAST) are opposed to the idea of a gun amnesty which, according to them will not address the underlying problem of Jamaica's rising crime situation.... Last month [December 2003], Mayor of Spanish Town Dr. Raymoth Notice first mooted a programme as a gun amnesty, but [now ex] Police Commissioner Francis Forbes cautioned the Spanish Town Mayor that he may not have to authority to launch an amnesty. The Commissioner asked for more information on the project but Dr. Notice simply changed the name to a gun initiative, and launched the programme. The Police and all nine Members of Parliament were noticeably absent from that launch. Since then, gun crimes in Spanish Town have increased with a triple murder in late December [2003], and at least 10 murders in the last two weeks of this month [January 2004]." [34y]

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Gang violence January 2004 – February 2004

6.195 The Jamaica Gleaner reported on 26 January 2004, that

"Violence which has been plaguing Spanish Town, central St Catherine, since the start of the year [2004], continued on Saturday [24 January 2004] night when four persons were killed by gunmen, who wounded a fifth... During the previous week, at least 10 persons were shot dead and eight others wounded by bullets, in separate shooting incidents in communities adjoining Spanish Town, the capital of St Catherine." [34q]

6.196 An article in the Jamaica Gleaner on 27 January 2004 reported that "A strong police presence will remain in Shelter Rock, Spanish town where the four people were shot dead." The same article reported that "Up to 26 January

[2004], police records were showing that over 65 persons had been killed since the start of the year [2004]. In the week of 19-25 January, 35 persons were murdered across the island." [34r]

6.197 The Jamaica Observer dated 27 January 2004 noted that "The [then] Police Commissioner Francis Forbes has replaced his crime chief in Spanish Town, Deputy Superintendent Dean Taylor, and transferred five other cops from the North St Catherine Division in what was last night being seen as an attempt by the police chief to bring fresh ideas to tackling the serious crime problem in the old capital." [36i]

6.198 A Jamaica Observer article dated 28 January 2004 reported that

"Gang violence in Spanish Town worsened last night 27 January 2004 with gunmen trading bullets in several communities, killing two men. 'It is not confined to any one area,' a police spokesman told the Observer last night. The shootings were reported in Tawes Pen, Duncan's Pen, Eilerslie Pen and Shelter Rock. There were also said to be shootings at the bus terminus on Burke Road, forcing commuters to flee for cover." [36j]

6.199 The same report commented on a case where a mother of two was shot and killed in Spanish Town. The article noted that

"Meanwhile Sherice Campbell, the 28-year-old mother of two, who was shot five times Monday [26 January 2004], was last night [27 January 2004] battling for her life in hospital. Campbell received bullet wounds to the neck, back and stomach when gunmen invaded a tenement yard at Chambers Lane in Spanish Town [an area whose residents staunchly support the Opposition Jamaica Labour Party and where members feared 'One Order' gang has strong influence]. One resident claimed that Campbell was shot because she was in a relationship with a man aligned to the 'Clansman' gang, who are said to be supportive of the ruling People's National Party and just as heavily-armed and deadly as their foes." [36j]

6.200 It was reported in the CMC on 29 January 2004 that

"Police are continuing to keep a close watch on sections of the old capital of Spanish Town in the central parish of St Catherine following as upsurge of violence in recent weeks. A curfew was imposed on sections of Spanish Town on Wednesday [28 January] evening and remained in effect on Thursday. The curfew was imposed in the volatile community after warring gangs crippled business and normal activity and put the St Catherine capital under siege. The security forces have been seeking to flush out members of the 'One Order' and 'Clans Man' gangs, reportedly responsible for the death of 12 people and the injury of 20 others since the start of the year [2004]." [44k]

6.201 The Jamaica Gleaner dated 30 January 2004 reported that

"The Church has agreed to play a key role in restoring order to Spanish Town, St Catherine, following a meeting yesterday [29 January 2004]

between religious, civic and political leaders that looked at new measures to address the town's problems. In addition, Member of Parliament (MP) Olivia 'Babsy' Grange told the Gleaner that she would be seeking meetings with criminal leaders to see how she could help broker a truce." [34s]

6.202 On the same day another article in the Jamaica Observer reported that

"The police poured into the municipal bus park in Spanish Town yesterday [29 January 2004] and vowed to take control of the area that is considered to be the centre of the town's extortion racket and the source of conflict between rival gangs seeking to control the business. 'We and the criminals cannot occupy the same space, whether (they are members of the) One Order or Clansman (gangs),' said the head of police's Special Anti-Crime Task Force (SACTF), Senior Superintendent Donald Pusey." [36k]

6.203 A Jamaica Gleaner report dated 2 February 2004 noted that

"In the wake of last week's [end of January 2004] flare-up of violence in Spanish Town, St Catherine, Prime Minister P.J. Patterson yesterday [1 February 2004] called on the parents of criminals to stop sheltering their sons. He was speaking during a radio broadcast on the same day that Dr. Paul Robertson, Minister of Development, vehemently denied Jamaica Labour Party (JLP) claims that the recent flare-up of violence was motivated by the ruling People's National Party (PNP)." [34t]

6.204 On 2 February 2004, "More than 40 Spanish Town residents discussed the recent upsurge of violence in the old capital and began to formulate proposals which, they hope, will lead to an end to the bloodletting", reported the Jamaica Observer on 3 February 2004. "A number of persons who were invited to the meeting, however, failed to show, citing the possibility of a break out of violence." The article said that "Police say the bloody clashes in Spanish Town have been linked to a fight between the 'One Order' and 'Clansman' gangs over extortion rights at the Spanish Town bus park. The police have since established a command post at the bus park." [36l]

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Gang violence February 2004 - February 2005

6.205 An article in the Jamaica Gleaner dated 20 February 2004 reported that "Gunmen went on the rampage in St Catherine and Kingston yesterday [19 February 2004], killing at least six persons, including two family members of a family and a Jamaican Defence Force (JDF) soldier. Two others were left with bullet wounds." These shootings have increased the number of persons killed violently since January [2004] to more than 140, or approximately three persons per day. There were reports that the father, Renford Linguard [who was shot dead], was a Crown witness in a matter which was scheduled for mention in court on 20 February 2004. [34w]

6.206 The Jamaica Observer dated 7 March 2004 noted that

"Over 150 of Jamaica's most dangerous criminals on the run, defying police efforts to bring them to justice for a variety of crimes, including

double murder, murder, conspiracy to murder, shooting with intent, illegal possession of firearm, rape, kidnapping and carnal abuse, police sources said. The Constabulary Communication Network (CCN), the information arm of the police force, said some of the criminals had been wanted for over five years, while others were convicted but escaped from police lock-ups and prisons." [36q]

6.207 The Gleaner reported on 27 April 2004 that the [then] Commissioner of Police Francis Forbes while addressing a group of teachers and students at the presentation and awards ceremony, said there had been an increase in the number of teenagers involved in major crime. He said "The year 2003 saw 117 or 3.1 per cent of all persons arrested for major crimes falling in the 12-15 age group, and 820 or 22 per cent falling in the 16-20 age group. We are experiencing a growing trend in youth crimes and anti-social behaviour." [34av]

6.208 An article in the Jamaica Gleaner dated 29 June 2004 stated that

"Information Minister Burchell Whiteman has revealed that Cabinet ministers and other high-profile members of the society have been placed on high alert in the face of threats from elements linked to the international drug trade. At the same time, a member of the Police High Command has confirmed that the intelligence arm of the island's security forces has intensified its probe into the threats made on the lives of several Cabinet Ministers and others. The senior police officer told The Gleaner yesterday [28 June 2004] that the situation is 'very sensitive'. The reports of death threats, as well as possible protest action, have emanated from police intelligence reports and come in the wake of the continuing crackdown on alleged drug kingpins." [34bk]

6.209 The Gleaner dated 21 July 2004 mentioned that

"As the murder rate continues to spiral out of control, the Jamaica Chamber of Commerce (JCC) has requested an urgent meeting with the Government to plot and discuss strategies to tackle the escalating tide of criminality in the island and wage 'a national war against crime'. Michael Ammar Jr, the JCC president, said crime not only threatens to derail 'our new-found economic stability but also to plunge our nation into a crisis, the consequences of which will be devastating for our people and our way of life.'He said 'The time has come for the private and public sectors, together with civil society, to agree to a new paradigm with regard to winning the war on crime and devise ways by which to fund and implement this strategy in the shortest possible time'." [34af]

6.210 A report in the BBC News on 17 August 2004 stated that

"Nearly 50 murders were reported in Jamaica last week in the Caribbean island's bloodiest seven-day period this year, police say. A record 47 people were killed in the week of 9-15 August [2004], bringing this year's homicide total to 835. The number is expected to surpass the record for homicides in a year, which stands at over 1,100 in 2001. Most of the motives for killings are undetermined, and guns and knives are the most frequently used weapon." [21b]

6.211 An article dated 23 August 2004 in the Jamaica Observer noted that

"Prime Minister P J Patterson warned yesterday [22 August 2004] that spiralling crime could derail Jamaica's renewed economic growth, but at the same time praised his security minister, Dr Peter Phillips, for the manner in which he has handled a tough portfolio. With over 700 murders already, homicides seem set to push well past the 1,000 mark this year [2004], reversing the decline of the past two years where there was a combined 17 per cent drop in murders. One result of the rising murder figures is a growing criticism of Phillips, who will be one of the contenders when Patterson steps down as PNP leader, expected sometime next year [2005]." [36ac]

6.212 The Jamaica Gleaner reported on 12 August 2004 that "Members of the Organised Crime Investigating Division (OCID) have busted what they believe is an illegal mini-gun repair shop in Portmore St Catherine, where a number of home made guns are being manufactured." [34az]

6.213 As reflected in an article in the Jamaica Gleaner dated 10 August 2004 Oliver 'Bubba' Smith the 'One Order' leader was shot and killed in July 2004 in St Andrew. On the day of his funeral [9 August 2004] members of the business community in Spanish Town, St Catherine drew down their shutters in preparation for his burial. Shoppers also stayed away in fear of violence. Heavily armed members of the security forces were strategically deployed in the adjoining communities predominantly under 'One Order's' control. The lawmen were prepared for all eventualities, following reports from the previous week that persons had ordered businesses to be closed 9 August 2004 as a mark of respect for the slain don. [34ba] The Gleaner dated 5 August 2004 noted that members of the 'One Order' gang had threatened to shut down the commercial district of Spanish Town, St Catherine on the day Oliver 'Bubba' Smith was due to be buried. [34bc]

6.214 A Jamaica Gleaner article dated 14 July 2004 reported that detectives from the Criminal Investigation Bureau (CIB) turned their attention to Central St. Catherine Member of Parliament, Olivia 'Babsy' Grange, following the shooting and killing of Oliver Smith, alias 'Bubba'. The police said Ms. Grange would be called in for questioning in relation to a Honda Civic motor car that Smith was driving at the time of his death. The CIB said the car was registered in the names of Ms. Grange and Andrew Hope, alias 'Bun Man', who was second in line to Smith. [34bd]

6.215 The Jamaica Gleaner noted in an article dated 23 July 2004 that

"Olivia 'Babsy' Grange, Jamaica Labour Party (JLP) Member of Parliament for Central St. Catherine, has called for legislation to define the roles and accepted behaviour of parliamentarians. The call came during the Opposition MP's first public comments since being questioned by the police on her alleged relationship with members of the 'One Order' gang which is based in the heart of her constituency. 'Given the moral hazard parliamentarians face in carrying out their duties, it is clear that we now need a legislation or amendment to the code of conduct and terms of reference for Parliamentarians,' Ms.

Grange said. She was speaking in the House of Representatives Wednesday [21 July 2004], while making her contribution to the Sectoral Debate. She has been under fire since the murder of Oliver 'Bubba' Smith." [34bi]

6.216 The BBC Monitoring Press review 16-17 August 2004 stated that

"The Gleaner reports on 17 August that Spanish Town Mayor Raymoth Notice is calling for military intervention in the town, where at least 12 persons have been killed in four days. 'I have written to the National Security Minister requesting that the Government immediately deploy the army in the communities where the killings are taking place', Notice says. The Gleaner notes that the renewed fighting in Spanish Town began shortly after the funeral of Oliver 'Bubba' Smith, reputed leader of the One Order gang, who was killed in July [2004]." [34bb]

6.217 A Jamaica Gleaner article dated 1 September 2004 noted that

"Success in curtailing the cocaine trade has allowed police to redeploy some intelligence resources into countering gang warfare, according to the Minister of National Security, Peter Phillips. An operation is now underway, 'which would allow us to identify, apprehend and cause to cease their operations...major (individuals) at the heart of gang warfare,' Mr Phillips said.... He disclosed that the thrust against gangs involved a combination of intelligence capabilities of the Jamaica Defence Force and the Jamaica Constabulary Force along with international partners. Security officials, he said, believe the island's main gangs are now trying to find new revenue sources as income from the cocaine smuggling has been cut." [34bm]

6.218 A BBC News article dated 9 September 2004 noted that

"Intense gang violence has earned the Jamaican city of Spanish Town the dubious honour of becoming the country's new 'murder capital'. The killings reached their highest point in August [2004] averaging four murders every day, much of it blamed on tit-for-tat encounters between rival gangs. Spanish Town's mayor, Raymoth Notice, who has called for the army to be brought in to deal with the situation, has warned that the city will shortly be devoid of young men aged 18-28. The spiral of violence is blamed in part on the drug trade - Jamaica is the crucial stop-off point between South America and the West - but is also fuelled by poverty. 'There are no working opportunities for persons, there are no infrastructure developments taking place,' Dr Notice told BBC World Service's Analysis programme. 'You have criminal elements taking over. It is not that people are randomly gunned down - it is between rival factions.'" [21e]

6.219 The Jamaica Observer dated 4 November 2004 noted that Andrew Hope, alias 'Bun Man' who was charged on New Year's Day 2004 with shooting with intent and illegal possession of firearm was freed of firearm and shooting charges in the Gun Court. His arrest had sparked a massive demonstration, which lasted for days, in Spanish Town. [36av]

6.220 An article in the Jamaica Gleaner dated 24 January 2005 noted that on the night of 23 January 2005 that a curfew had to be imposed in the Spanish Town community of Ellerslie Pen in the aftermath of the shooting of nine persons, two fatally. Superintendent Renfold Robinson, head of the St Catherine North Police Division, later told the Gleaner the shooting was linked to an on-going feud between the One Order Gang and opposing factions within the area. The article went on to say that "Residents of the grief-stricken community told The Gleaner that a number of men armed with high-powered weapons and dressed in police uniform, bullet-proofed vests and helmets, stormed the community some time after 11 a.m. and began shooting indiscriminately. [34dc] According to an article in the Jamaica Gleaner dated 25 January 2005 the police, in reacting to the violence, imposed a curfew on sections of Spanish Town. The police confirmed that one man had been arrested with the killings. [34dd]

6.221 The Jamaica Observer dated 25 January 2005 reported that

"Several frightened families, fearing that they have been marked for death, hustled out of the Tawes Pen area of Spanish Town yesterday [24 January 2005] in the face of new violence in the community as part of a tussle for power among gang leaders. 'Them get orders to move out,' one onlooker said as members of three families packed furniture, appliances and other belongings into a truck. At the same time, the police reported that they had interviewed Andrew Hope, also called Bun Man, who cops last year [2004] claimed to be among the leaders of the notorious One Order Gang. Yesterday [24 January 2005], Detective Inspector Derrick Champagnie of the Spanish Town Criminal Investigation Bureau, made it clear that Hope was not being questioned for any crime, but apparently because the police believe that he can help broker a truce between protagonists. 'We are trying to get the warring factions to talk to see if the conflict can be resolved peacefully,' Champagnie told the Observer. 'The conflict benefits no one.'" [36au]

6.222 The same article in the Jamaica Observer dated 25 January 2005 also noted that

"The new upsurge of violence in Spanish Town reached a crescendo on Sunday [23 January 2005] when gunmen, some dressed in police gear, went into the community of Ellerslie Pen and opened fire with automatic weapons, killing three persons and injuring six. Police said that the shooting was between rival factions of the One Order gang over who should take over from its former boss Oliver "Bubba" Smith, who was killed in Kingston last July [2004]. Police believe that Smith was cut down by some of his gang colleagues. Now, cops claim, some elements of Tawes Pen/ Ellerslie Pen are attempting to pave the way for Linford Hamilton, also called Satta John, to take over the gang when he emerges from prison, which they expect to happen this year [2005]." [36au]

6.223 The above-mentioned article in the Jamaica Gleaner dated 25 January 2005 also mentioned that

"Hamilton has been in jail for two decades for the murder of a policeman, but will be up for parole consideration. 'They believe he will get parole this year [2005] and are trying to pave the way for him to take over the leadership of One Order,' Detective Inspector Champagnie said.... The One Order gang is an outgrowth of Bubba Smith's efforts to bring under a single management all the gangs that operated in Spanish Town communities where the Opposition Jamaica Labour Party has strong support - under one order. Gangs that resisted were ruthlessly attacked, leading to a spate of inter and intra-gang violence during 2002 and 2003. One Order also clashed with the pro-People's National Party gang, Clansman, for control of the extortion racket in Spanish Town." [36au]

6.224 An article in the Jamaica Gleaner dated 1 February 2005 reported that the violence which has scarred sections of Spanish Town during the previous two weeks continued. The Spanish Town police say approximately 181 persons were murdered in the town in 2004. [34de]

6.225 An article in the Jamaica Gleaner dated 1 February 2005 reported that the violence which has scarred sections of Spanish Town during the previous two weeks continued. The Spanish Town police say approximately 181 persons were murdered in the town in 2004. [34de] The Jamaica Gleaner dated 25 February 2005 noted that since the start of 2005, the Spanish Town police were investigating its 28th case of murder. [34em]

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Joel Andem - 'Gideon Warrior Gang'

6.226 One of Jamaica's most wanted men was arrested on 26 May 2004 during a joint police/military operation in St Ann, according to an article in the Jamaica Gleaner dated 27 May 2004. The article stated that

"It was an anti-climactic ending to the search for the country's most wanted fugitive, who surrendered after being cornered by lawmen. The 40-year-old Andem was touted by police to be a very dangerous individual often armed with an AK-47 rifle and a 9-mm pistol. In fact, based on his supposed *modus operandi* over the past eight weeks, the police had upgraded his status from that of a fugitive to terrorist. This was confirmed yesterday [26 May 2004] by [then] Deputy Commissioner Lucius Thomas. [34bf] According to a Gleaner article dated 30 July 2004, Andem appeared in the Home Circuit Court where his murder case was set for mention on 22 September 2004." [34bg]

6.227 As reported in the Jamaica Observer dated 5 June 2004 Andem will have to face 27 criminal charges, including two for murder. Andem was also charged with conspiracy to murder, 10 counts of shooting with intent, 12 counts of illegal possession of firearm, robbery with aggravation and kidnapping. The police did not give details of the offences. However, one of the offences he is expected to be charged with is that of Sylvia Edwards. [36ae]

6.228 The Jamaica Observer noted in an article dated 21 July 2004 that Andem was due to return to court 25 August 2004 to stand trial for the murder of a St Andrew station operator Sylvia Edwards. Police had said that the Joel

Andem gang was responsible for the 2000 kidnapping and killings of Edwards after family members had refused to pay a \$200,000 ransom. [36ag]

6.229 The Jamaica Gleaner dated 28 September 2004 reported that Joel Andem was due to be tried in the Gun court on 15 November 2004 on ten charges of shooting with intent and ten charges of illegal possession of firearm and ammunition. The same report noted that one of Andem's accomplices and member of the notorious 'Gideon Warrior Gang' was killed by police in the early hours of 28 September 2004. [34du] The Jamaica Gleaner dated 16 November 2004 reported that Andem would be tried in the Gun Court on 31 January 2005 on the ten charges of shooting with intent and ten charges of illegal possession of firearm and ammunition. [34dw]

6.230 On 9 October 2004, the Jamaica Gleaner reported that Andem had appeared on the Home Circuit Court on 8 October 2004 charged with the murder of Sylvia Edwards. He remained remanded in custody until 29 November 2004. This was to give the Crown time to serve all the relevant documents to the defence. [34dv]

6.231 A report in the Jamaica Gleaner dated 8 January 2005 noted that

"Anthony Peart, one of the trusted lieutenants of jailed gang leader, Joel Andem, was shot and killed by the police on Wednesday [5 January 2005] night, in the Mud Town community of Papine, St. Andrew. Popularly known as 'Troy' and 'Rickie Rudie', Peart has been a prominent member of the Joel Andem-led Gideon Warrior gang for over the past four years. He was gunned down during a shoot-out with members of the new crime-fighting unit, Operation Kingfish.... Reports are that Operation Kingfish is now closing in on a number of the organised crime gangs and criminal bosses. The law enforcers have also completed their data processing on the membership of some of these gangs." [34dx]

6.232 The Jamaica Observer dated 28 January 2005 noted that

"Captured gang leader Joel Andem was yesterday [27 January 2005] freed of a murder charge in the Home Circuit Court after the prosecution's only witness firmly told the court that he would not testify for fear of his life. But Andem, 40, who has been in custody since May last year [2004], was quickly taken away by heavily-armed police and soldiers as he is still to face the court on 26 other criminal charges, including two for suspected murder and one for alleged conspiracy to murder. Yesterday's [27 January 2005] case was in regard to the June 26, 2000 shooting death of 20 year-old Lennox French on Old Hope Road, St Andrew....The prosecution had apparently expected the case to be short, given that they had only one witness. But when the matter was called up, the witness told Justice Lloyd Hibbert and the 12-member jury that he lives in the community where the crime was committed and did not want to have to keep looking over his shoulder." [36bb]

6.233 The Jamaica Observer article dated 28 January 2005 also stated that

"In addition to the murder and conspiracy to murder charges, Andem has been charged with:

- 10 counts of shooting with intent;
- 12 counts of illegal possession of firearm;
- robbery with aggravation;
- and kidnapping.

No court dates have yet been set to hear these charges.

Police say that Andem's gang, known as the Gideon Warriors, was involved in kidnapping, extortion, robbery, gun-running and contract killings. The cops have also blamed the gang for more than 22 murders, including those of St Andrew gas station owner Sylvia Edwards and her brother-in-law Robert Edwards; District Constable James Thomas, who was shot dead in Kintyre and his body dumped in the Hope River; and People's National Party activist Pearl Brisco, who was branded a police informer." [36bb]

6.234 An article in the Jamaica Gleaner dated 26 February 2005 noted that Joel Andem who is still being remanded in custody is due to return to court on 10 March 2005 when it is expected that a trial date will be set. [34ee]

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Donald 'Zekes' Phipps - 'Matthews Lane area leader'

6.235 As reported in the Jamaica Gleaner dated 18 October 2004,

"Matthews Lane area leader Donald 'Zekes' Phipps was taken into custody yesterday [17 October 2004] during a massive joint military/police operation which began in the early hours of the morning in west Kingston. 'Zekes' was taken to the Kingston Central Police station for questioning by Senior Superintendent Calvin Benjamin after a large sum of money, initially estimated at more than \$10 million, and several rounds of ammunition were reportedly found in his Matthews Lane home and nearby wholesales store.... In October last year [2003], Zekes turned himself over to the police for questioning in connection with an alleged extortion racket." [34ea]

6.236 The Jamaica Gleaner dated 19 October 2004 noted that

"In September 1998, the last time Mr Phipps was jailed, downtown Kingston was locked down for more than 48 hours as members of the security forces clashed with gunmen.irate residents mounted roadblocks and burned debris in the street. A senior officer who spoke with the Gleaner yesterday [18 October 2004] said the community don has instructed the residents not to demonstrate and to allow the police to their job." [34eb]

6.237 Another article in the Jamaica Gleaner dated 22 October 2004 noted that Desmond McKenzie, the mayor of Kingston, said he had been receiving death threats since the recent arrest of 'Zekes'. Desmond McKenzie said "These threats include telephone calls to my office and one, specifically, in which the caller not only made accusations and the threats by identified herself and left a number for me to respond." [36bd]

6.238 The Jamaica Gleaner dated 22 October 2004 noted that 'Zekes' was offered bail in the sum of \$1.5 million when he appeared in Court on 21 October 2004, on condition that he surrender his travel documents, report three times per week at the Central Police Station. Up until late on 21 October 2004, 'Zekes' was unable to take up the bail offer, because of problems he was experiencing with his travel documents. He was scheduled to return to court on 2 November 2004. [34ec] The Jamaica Gleaner dated 26 October 2004 noted that 'Zekes' was released from custody on 25 October 2004. [34ed]

6.239 The Jamaica Observer dated 14 December 2004 noted that

"Almost nine million dollars in local and United States currency which the police took from Donald 'Zekes' Phipps in October [2004], was returned to him on the weekend, with no additional charges laid on the so-called Matthew's Lane area leader....Although Phipps could not explain how he came by the money, his attorney K Churchill Neita said the police has no basis on which to keep the cash." [36be]

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Treatment of returned Failed Asylum Seekers

6.240 Correspondence, dated 19 April 2005, from the Foreign and Commonwealth Office noted that the British High Commission in Kingston have confirmed that deportees (including failed asylum seekers) are interviewed by police on their return but there are no penalties imposed for immigration or other offences committed solely in the UK. [60]

6.241 The Jamaica Gleaner dated 6 February 2004 stated that the [then] Police Commissioner Francis Forbes wants all persons deported to Jamaica to be fingerprinted, irrespective of their criminal status. The Commissioner said that if an individual commits an offence in Jamaica and runs off to another country, and is subsequently deported from that second country if he is fingerprinted upon his return to Jamaica, you would discover his connection with the offence committed prior to his departure from Jamaica. In a concession to the likelihood of strong opposition to this position, however, the Commissioner signalled his willingness to pursue this as a long-term goal. [34x]

Treatment of Non-Governmental Organisations

6.242 The USSD 2004 stated that

"A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice focused on the issues of police impunity, extrajudicial killings and excessive use of force by the police and wrote a weekly newspaper column. Jamaicans for Justice reported that undercover police regularly attended its meetings; nevertheless, the group professed to have a cordial relationship with the police and sat on two of the police consultative boards." [8](p6)

6.243 Amnesty International [AI] in their report entitled 'Essential actors of our time' published 10 November 2003, stated that

"Amnesty International wrote to the Jamaican government three times during the period 2000 to 2003 regarding repeated statements by top government and public officials portraying human rights workers as 'enemies of the police force' and insinuating defenders are in league with criminal gangs. In July 2002, the organisation requested the Minister for National Security to clarify whether it was official government policy to regard human rights groups as sanctioning criminality, following comments by the Head of the Crime Management Unit that 'criminals have infiltrated civil rights groups.' Amnesty International received no reply." [9a](p10)

6.244 As mentioned on their website, accessed 8 September 2003, The Independent Jamaica Council for Human Rights (1998) Limited (IJCHR) are based in Kingston and formed in 1968. It is the oldest human rights NGO in the Caribbean. The Council is non-partisan and non-sectarian. Its membership is open to all persons who subscribe to the Universal Declaration of Human Rights and support the aims and objectives of the IJCHR. The Council pursues the protection and promotion of human rights through advocacy, public education and legal aid and assistance. The Council is dedicated to achieving respect for human rights, greater mutual tolerance and less abuse of the vulnerable in society. [31a]

6.245 An article in the Jamaica Gleaner dated 5 May 2004 reported that

"The Work of local human rights lobby group Jamaicans For Justice (JFJ), was significantly boosted yesterday [4 May 2004] with a \$12 million donation from the British Government. The money will be used to implement a two-year legal assistance project. Dr. Carolyn Gomes, executive director of JFJ in accepting the donation at the British High Commission, New Kingston, explained that the project will be geared towards addressing some of the priority problems in the justice system. It will also assist those most at risk of being deprived of their fundamental rights, including the right to life, by the state. Dr. Gomes explained that the money will provide JFJ with the resources to employ its own legal officer." [34au]

6.246 AI in a Press Release dated 26 November 2004, entitled 'Jamaica: Protecting the right to defend human rights' noted that

"The Government of Jamaica should publicly reiterate its commitment to protecting and promoting the legitimate work of human rights defenders in Jamaica, said Amnesty International today [26 November 2004], following a call by a member of Jamaica's Police Federation that international and national human rights organisations should be charged with sedition, and recent threats to human rights defenders. In a letter published on 25 November 2004 in the Jamaica Observer, Sergeant David White, the Police Federation's Public Relations Officer, accused international and domestic human rights groups of harassing the state. He alleged that they 'spread lies and deliberately malign and slander the police force and the government.' He also stated that their

activities amount to 'illegal interference', but did not specify which laws had been violated." [9m]

6.247 The AI Press Release dated 26 November 2004 also noted that

"Not only do such comments constitute an unacceptable attack on freedom of expression - a cornerstone of human rights protection - but they may also encourage and even incite acts of violence or intimidation against human rights defenders," said Amnesty International. The background to such comments are recent threats and intimidation against local human rights organisation JFLAG, the Jamaican Forum of Lesbians, All-sexuals and Gays. The organisation has received several death threats in recent weeks.... 'Amnesty International insists that the Jamaican authorities must ensure that those who defend human rights can continue their legitimate work without fear, by explicitly stating their support for such activities, guaranteeing the required protection and by ensuring that those who threaten human rights defenders are held accountable.'" [9m]

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Humanitarian Aid/International Assistance

6.248 As noted in the Foreign and Commonwealth Office Country Profiles on Jamaica last updated 10 January 2005

"Britain's aid programme for Jamaica is worth in the region of £2.5 million a year. In addition, the UK also waives approximately £5-6m of Jamaican debt annually. Major projects include assistance to the programme to reform the Jamaican police force; assistance to the private sector to enhance the competitiveness of Jamaican exports; support for the Government's public sector reform programme and other programmes related to social development and giving disadvantaged groups of Jamaican society a stronger voice in the development of policy by the Government." [6](p3)

6.249 The USSD Background Note dated August 2004 mentioned that

"The United States maintains close and productive relations with the Government of Jamaica.... The United States is Jamaica's most important trading partner: bilateral trade in goods in 2000 was almost \$2 billion. Jamaica is a popular destination for American tourists; more than 800,000 Americans visited in 2000. In addition, some 10,000 American citizens, including many dual-nationals born on the island, permanently reside in Jamaica." [7](p4)

6.250 The same USSD Background Note further noted that

"The Government of Jamaica also seeks to attract U.S. investment and supports efforts to create a Free Trade Area of the Americas (FTAA). More than 80 U.S. firms have operations in Jamaica, and total U.S. investment is estimated at more than \$1 billion.... U.S. Agency for International Development (USAID) assistance to Jamaica since its independence in 1962 has contributed to reducing the population growth rate, the attainment of higher standards in a number of critical

health indicators, and the diversification and expansion of Jamaica's export base.... In fiscal year 2002, the USAID mission in Jamaica operated a program totaling more than \$13 million in development assistance." [7](p4)

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Chronology of Major Events

- 1655** Britain captured Jamaica.
- 1670** Jamaica formally ceded to Britain.
- 1838** Slavery abolished.
- 1938** Norman Manley founded the People's National Party (PNP).
- 1944.** Universal adult suffrage introduced; new constitution providing for a Popularly-elected House of Representatives promulgated.
- 1962.** Jamaica became independent within the Commonwealth with Alexander Bustamante of the Jamaica Labour Party (JLP) as Prime Minister.
- 1972.** The PNP won the general election and Michael Manley becomes Prime Minister.
- 1976.** The PNP won another election.
- 1980.** JLP won the general election and Edward Seaga is elected Prime Minister. Seaga proceeded to privatise state enterprises.
- 1989** Michael Manley was elected Prime Minister after PNP ousts the JLP in elections.
- 1992.** Michael Manley retired on health grounds and is succeeded by Percival Patterson as the Prime Minister and the leader of the PNP.
- 1993.** The PNP returned to office with an increased majority.
- 1998.** The PNP won a third term in office amid increasing crime and deteriorating economy.
- 1999.** In April violent protests took place against a 30% increase in fuel prices. In July the Government ordered the army to patrol the streets of Kingston following a massive increase in crime.
- 2001.** In July troops backed by helicopter gunships, tanks and armoured vehicles moved in to restore order in capital, Kingston, after three days of unrest left at least 27 people dead.
- 2002.** In January, the authorities announced that more than 1,100 people were murdered in Jamaica in 2001. This showed an increase of 30% over the previous 12 months, and the highest ever recorded in a single year. In March, Britain's Privy Council, decided to halt executions in a number of Caribbean countries where capital punishment has widespread support as a deterrent to rising violent crime. Prime Minister P. J. Patterson criticised the move.
- 16 October, the People's National Party was re-elected for the fourth term in the general election. This was the third consecutive election victory for Prime Minister Patterson.
- 2003** January - UK introduced visa regime for Jamaican entering the UK; London says the move is intended to tackle illegal immigration.
- 2004** In March, Ousted former Haitian president Jean-Bertrand Aristide arrived in Jamaica, prompting angry response from new Haitian government.
- 2004** September - Hurricane Ivan - described as the biggest in living memory - pounded the island, destroying thousands of homes.
- 2005** January - Murder rate for 2004 was put at 1,145. Police blamed much of the violence on street gangs.

Political Organisations

The People's National Party (PNP)

Founded in 1938; socialist principles; affiliated with the National Workers' Union; Leader - Percival J Patterson; General Secretary - Maxine Henry-Wilson; First Vice President - Peter Phillips. [1](p564)

The Jamaica Labour Party (JLP)

Founded in 1943. Supports free enterprise in a mixed economy and close co-operation with the USA. Leader – Bruce Golding; Deputy Leader - Olivia ('Babsy') Grange. [1](p564)

The National Democratic Movement (NDM)

Founded in 1995; Advocates a clear separation of powers between the central executive and elected representatives; supports private investment and a market economy. President - Hyacinth Bennett; Chairman - Brascoe Lee. [1](p564) Bruce Golding had resigned from the party, to be replaced by Hyacinth Bennett. [1](p554)

Jamaica Alliance for National Unity (JANU)

Founded in 2002. A Kingston-based party. [1](p564)

United People's Party

Founded in 2001. President - Antoinette Haughton Cardenas; General Secretary - Horace Matthews. [1](p565)

Republican Party of Jamaica

Kingston-based; Leader - Denzil Taylor. [1](p565)

Imperial Ethiopian World Federation Party (I.E.W.F. Inc).

Launched on 16 July 1997 and first entered the Jamaican political arena in the 1997 General Election with 5 candidates. It was launched to represent the Rastafarian community in the Jamaican Parliament and the Grassroot people. [52]

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Annex C

Prominent People

Kenneth Baugh

In January 2005 Dr Kenneth Baugh was officially named temporary Opposition leader by Governor-General. Dr Baugh has been a surgeon for over 30 years. He unsuccessfully contested the West Central St Catherine seat for the JLP in the general election of 1997 and two years later he was appointed general secretary, a post he held for four years. [34bq]

Bruce Golding

The JLP's defeat in the 1993 election led to increased in-fighting among senior members and criticism of Seaga's leadership, with the result that In 1995 Bruce Golding was the former JLP Chairman and finance spokesman. He later left the party to lead a new organisation, the National Democratic Movement (NDM). [1](p554) He had reportedly rejoined the party. [16b] Bruce Golding named as the official leader of the JLP on 21 February 2005. [34dh]

Antoinette Haughton

The leader of United People's Party. [13b]

Michael Manley

Became Prime Minister in 1972 following an impressive victory by the PNP in the general elections. [63]

Percival J Patterson

Assumed office as Prime Minister in 1992. [6](p1) He led the PNP to election victories in 1993 and 1997. [5](p2259-2260)

Edward Seaga

Ex-leader of the JLP. Mr Seaga's resignation took effect 19 January 2005. Mr Seaga assumed a senior post in the Department of Government at the University of the West Indies. [34bp]

Hilaire Sobers

Is a human rights activist and lawyer and writes a weekly column on human rights for the Jamaica Observer. He is an outspoken critic of the government's human rights record. He has been highly critical of the authorities' failure to prevent extrajudicial executions by the security forces and other abuses. [9g]

Barry Wade

In April 2002, Barry Wade, Al Miller and a group of church leaders launched a new political party, which called for a government of national unity and challenged Jamaicans to become more politically involved. The Jamaica Alliance for National Unity (JANU) hoped to break the virtual stranglehold of the ruling People's National Party (PNP) and opposition Jamaica Labor Party (JLP), which have dominated politics since the island nation won independence in 1962. [13c]

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